

## Notice of Public Administrative Hearing

Pursuant to Administrative Order No. 1997-11, the Michigan Supreme Court will hold a public administrative hearing on **Wednesday, March 24, 2021**, via video conference (Zoom). The hearing will begin promptly at **9:30 a.m. and adjourn no later than 11:30 a.m.** For those who wish to view the public hearing, a live stream can be accessed on the Court's YouTube channel.

Persons who wish to address the Court regarding matters on the agenda will be allotted three minutes each to present their views, after which the speakers may be questioned by the justices. Each speaker will receive an invitation to participate in the Zoom meeting; the speakers will be called in order of item number and request to speak. Speakers will join the meeting no later than 9:30 a.m. and will be muted until called on by the chief justice. **\*\*\*Please be aware that comments offered at a public hearing must pertain directly to an item on the public hearing agenda\*\*\*** To reserve a place on the speaker's list, please notify the Office of Administrative Counsel by e-mail at ADMcomment@courts.mi.gov, no later than Friday, March 19, 2021. If you are not able to register to speak by e-mail, you may call the office at 517-373-1239.

The administrative matters on the agenda for this hearing are:

1. **2019-06 Amendment of MCR 6.302**  
Published at 506 Mich \_\_\_\_ (2020)  
Issue: *Whether to retain the amendment of MCR 6.302 that makes the rule consistent with the Supreme Court's ruling in People v Warren, 505 Mich 196 (2020), and requires a judge to advise a defendant of the maximum possible prison sentence including the possibility of consecutive sentencing.*
2. **2019-35 Proposed Amendment of MCR 6.502**  
Published at 506 Mich 1201 (2020)  
Issue: *Whether to adopt the proposed amendment of MCR 6.502 that would eliminate the requirement to return successive motions to the filer and would eliminate the prohibition on appeal of a decision made on a motion for relief from judgment. Further, it would require all such motions to be submitted to the assigned judge, and require a trial court to issue an order when it rejects or denies relief.*
3. **2019-48 Proposed Amendment of MCR 1.109**  
Published at 506 Mich 1202 (2020)  
Issue: *Whether to adopt the proposed amendment of MCR 1.109 that would require a signature from an attorney of record on documents filed by represented parties. This language was inadvertently eliminated when MCR 2.114(C) was relocated to MCR 1.109 as part of the e-Filing rule changes.*
4. **2020-07 Proposed Alternative Amendments of MCR 6.502**  
Published at 506 Mich \_\_\_\_ (2020)  
Issue: *Whether to adopt either of the proposed alternative amendments of MCR 6.502 that would address the issue of a court's recharacterization of a defendant's motion for relief from judgment that is styled as something other than a motion for relief from judgment.*
5. **2020-16 Proposed Amendment of MCR 9.261**  
Published at 506 Mich 1203 (2020)  
Issue: *Whether to adopt the proposed amendment of MCR 9.261 that would allow the JTC to share information with two separate divisions of the State Bar of Michigan: the Judicial Qualifications Committee and the Lawyers & Judges Assistance Program.*
6. **2020-17 Proposed Addition of MCR 3.906**  
Published at 506 Mich \_\_\_\_ (2020)  
Issue: *Whether to adopt the proposed addition of MCR 3.906 that would establish a procedure regarding the use of restraints on a juvenile in court proceedings.*
7. **2020-19 Proposed Amendment of MCR 2.302**  
Published at 506 Mich \_\_\_\_ (2020)  
Issue: *Whether to adopt the proposed amendment of MCR 2.302 that would require transcripts of audio and video recordings intended to be introduced as an exhibit at trial to be transcribed.*
8. **2020-20 Proposed Amendment of MCR 2.105**  
Published at 506 Mich \_\_\_\_ (2020)  
Issue: *Whether to adopt the proposed amendment of MCR 2.105 that would establish the manner of service on limited liability companies.*
9. **2020-22 Amendment of MCR 6.110**  
Published at 506 Mich \_\_\_\_ (2020)  
Issue: *Whether to retain the amendment of MCR 6.110 that requires courts to allow a witness called by the prosecutor or defendant to appear at a preliminary examination as provided for by MCL 766.12.*
10. **2020-24 Proposed Amendment of Rule 7 of the Rules Concerning the State Bar of Michigan**  
Published at 506 Mich \_\_\_\_ (2020)  
Issue: *Whether to adopt the proposed amendment of Rule 7 of the Rules Concerning the State Bar of Michigan that would ensure that all main officers (president, vice-president, treasurer, and secretary) move sequentially through the leadership roles of the Board of Commissioners.*
11. **2020-25 Proposed Rescission of Administrative Order No. 1997-9 and Proposed Addition of Administrative Order No. 2020-X**  
Published at 506 Mich \_\_\_\_ (2020)  
Issue: *Whether to rescind Administrative Order No. 1997-9 and in its place adopt proposed Administrative Order No. 2020-X that would slightly modify the distribution of IOLTA funds to provide for additional access to justice programming and establish a cap on distributions to the Michigan Supreme Court Historical Society.*
12. **2020-26 Proposed Amendments of MCR 1.109 and 8.119**  
Published at 506 Mich \_\_\_\_ (2020)  
Issue: *Whether to adopt the proposed amendments of MCR 1.109 and 8.119 that would allow SCAO flexibility in protecting an individual's personal identifying information and clarify when a court is and is not required to redact protected personal identifying information.*

**Amendment of Administrative Order No. 2020-21  
Order Allowing Notice of Filing to Extend Filing Period in  
Michigan Supreme Court and Michigan Court of Appeals  
(Dated February 26, 2021)**

On order of the Court, the following amendment of Administrative Order No. 2020-21 is adopted, effective immediately.

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

As of November 20, 2020, nearly half of Michigan's prisons are considered outbreak sites of the COVID-19 virus. As a result, many prison facilities have restricted access to or closed the prison libraries, where self-represented inmates primarily work on pursuing their legal claims. And due to the prevalence of remote sentencing proceedings, some defendants face difficulty and delay in obtaining and submitting forms to request appellate counsel. These restrictions are impeding the ability of incarcerated individuals to complete the necessary legal pleadings to proceed with a criminal appeal.

Therefore, on order of the Court, pursuant to 1963 Const, Art VI, Sec 4, which provides for the Supreme Court's general superintending control over all state courts, the Court adopts the following alternative procedure for inmates who seek to file appeals with the Michigan Supreme Court and Michigan Court of Appeals in criminal cases only:

1–3 [Unchanged.]

4. The tolling period established by this order shall expire on March 1 April 1, 2021, unless it is extended by further order of the Court.

**Proposed Amendment of Rule 1.109  
of the Michigan Court Rules (Dated March 10, 2021)**

On order of the Court, this is to advise that the Court is considering an amendment of Rule 1.109 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 1.109 Court Records Defined; Document Defined;  
Filing Standards; Signatures; Electronic Filing  
and Service; Access

(A)–(F) [Unchanged.]

(G) Electronic Filing and Service.

(1) Definitions. For purposes of this subrule:

(a) "Authorized user" means a user of the e-filing system who is registered to file, serve, and receive documents and related data through approved electronic means. A court may revoke user authorization for good cause as determined by the court, including but not limited to a security breach. If an authorized user needs to change user accounts, he or she must provide notice to the court and the other authorized users on the case in accordance with MCR 1.109(G)(3)(j).

(b)–(f) [Unchanged.]

(2) [Unchanged.]

(3) Scope and Applicability.

(a)–(i) [Unchanged.]

(j) An authorized user must notify the court and other authorized users on the case regarding any change to the user account, including a change of email address. The notice must be in writing and filed with the court with service on the parties immediately after the user account is changed. Once the notice is filed with the court, all future e-service must be served using the updated user account information.

(j)–(l) [Relettered (k)–(m) but otherwise unchanged.]

(4)–(5) [Unchanged.]

(6) Electronic-Service Process.

(a) General Provisions.

(i)–(iii) [Unchanged.]

(iv) If a document is electronically served to a party's known email address but is returned to the filer as undeliverable, this will constitute proper service when the transmission to the recipient's email address is sent, in accordance with MCR 1.109(G)(6)(b). Neither the filer nor the court will need to take any further action regarding the undeliverable message.

(iv)–(vi) [Renumbered but otherwise unchanged.]

(b)–(c) [Unchanged.]

(7) [Unchanged.]

STAFF COMMENT: The proposed amendment of MCR 1.109 would address e-Filing issues relating to updating authorized user accounts and e-service of documents that are returned as undeliverable to a registered e-mail address.

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 July 1, 2021, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2002-37. 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 Amendments of Rules 3.903, 3.966, 3.975, and 3.976 of the Michigan Court Rules (Dated March 10, 2021)

On order of the Court, this is to advise that the Court is considering amendments of Rules 3.903, 3.966, 3.975, and 3.976 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 will also be considered at a public hearing. The notices and agendas for public hearing 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 3.903 Definitions

(A)–(B) [Unchanged.]

(C) Child Protective Proceedings. When used in child protective proceedings, unless the context otherwise indicates:

(1)–(13) [Unchanged.]

(14) “Qualified Residential Treatment Program” means a residential program that has met all of the following criteria:

(a) Use of a trauma-informed treatment model;

(b) Registered or licensed nursing staff and other licensed clinical staff must be on-site or available 24 hours a day, 7 days a week;

(c) Accredited by an independent not-for-profit organization as described in 42 USC 672(k)(4)(G);

(d) Integration of families into treatment, including sibling connections;

(e) Discharge planning and aftercare support for at least six months post discharge; and

(f) Does not include a detention center, forestry camp training school, or other facility operated primarily for minor children determined to be delinquent.

(15) “Qualified Individual” means a trained professional or licensed clinician who is not an employee of the department and who is not connected to, or affiliated with, any placement setting in which children are placed by the department, and who is responsible for conducting an assessment of a child placed in a qualified residential treatment program pursuant to MCL 722.123a.

(D)–(F) [Unchanged.]

### Rule 3.966 Other Placement Review Proceedings

(A)–(C) [Unchanged.]

(D) Review of Child’s Placement in a Qualified Residential Treatment Program

(1) Ex Parte Motion for Review. Within 45 days of the child’s initial placement in a qualified residential treatment program, the Agency shall file an ex parte motion requesting the court to approve or disapprove of the placement.

(a) Supporting Documents. The motion shall be accompanied by the assessment, determination, and documentation made by the qualified individual.

(b) Service. The Agency shall serve the ex parte motion and accompanying documentation on all parties.

(2) Judicial Determination. Within 14 days of filing, the court, or an administrative body appointed or approved by the court independently, shall review the motion, and any supporting documentation filed pursuant to this subrule, and issue an order approving or disapproving of the placement. The order shall include individualized findings by the court or administrative body as to:

(a) whether the needs of the child can be met in a foster family home, or if not,

(b) whether the placement of the child provides the most effective and appropriate level of care for the child in the least restrictive environment, and

(c) whether the placement is consistent with the goals in the permanency plan for the child.

The court shall serve the order on parties. The court is not required to hold a hearing on the ex parte motion under this subrule.

### Rule 3.975 Post-Dispositional Procedures: Child in Foster Care

(A) Dispositional Review Hearings. A dispositional review hearing is conducted to permit court review of the progress made to comply with any order of disposition and with the case service plan prepared pursuant to MCL 712A.18f and court evaluation of the continued need and appropriateness for the child to be in foster care; and to permit the court to approve or disapprove of the child’s initial or continued placement in a qualified residential treatment program.

(B)–(E) [Unchanged.]

(F) Criteria.

(1)–(2) [Unchanged.]

(3) Review of Placement in Qualified Residential Treatment Program. Where a child remains placed in a qualified residential treatment program, the court shall review the evidence submitted by the Agency, approve or disapprove of the placement, and make individualized findings as to:

(a) whether the needs of the child can be met through placement in a foster home; or if not,

(b) whether the placement provides the most effective and appropriate level of care for the child in the least restrictive environment; and

- (c) whether the placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child.

(G)–(H) [Unchanged.]

#### Rule 3.976 Permanency Planning Hearings

(A)–(D) [Unchanged.]

(E) Determinations; Permanency Options.

(1) [Unchanged.]

(2) Determining Whether to Return Child Home. At the conclusion of a permanency planning hearing, the court must order the child returned home unless it determines that the return would cause a substantial risk of harm to the life, the physical health, or the mental well-being of the child. Failure to substantially comply with the case service plan is evidence that the return of the child to the parent may cause a substantial risk of harm to the child's life, physical health, or mental well-being. In addition, the court shall consider any condition or circumstance of the child that may be evidence that a return to the parent would cause a substantial risk of harm to the child's life, physical health, or mental well-being. If the court does not order the child returned home, and the child remains in a qualified residential treatment program, the court shall:

(a) review the evidence submitted by the Agency, approve or disapprove of the placement, and make individualized findings as to:

(i) whether the needs of the child can be met through placement in a family foster home; or if not,

(ii) whether the placement provides the most effective and appropriate level of care for the child in the least restrictive environment; and

(iii) whether the placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan of the child.

(3)–(4) [Unchanged.]

STAFF COMMENT: The proposed amendments of MCR 3.903, 3.966, 3.975, and 3.976 would make procedural changes for cases involving the placement of foster care children in a qualified residential treatment program as required by state and federal statutory revisions.

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 July 1, 2021, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2020-36. 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 3.903 and 3.925 of the Michigan Court Rules (Dated March 10, 2021)

On order of the Court, this is to advise that the amendments of Rules 3.903 and 3.925 of the Michigan Court Rules are adopted, effective March 24, 2021. Concurrently, individuals are invited to comment on the form or the merits of the amendments during the usual comment period. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for public hearing are posted at Administrative Matters & Court Rules page.

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

### Rule 3.903 Definitions

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

(1)–(2) [Unchanged.]

(3) “Confidential file” means

(a) records of a case brought before the court under Chapter XIIIA of the Probate Code, MCL 712A.1 et seq. that part of a file made confidential by statute or court rule, including, but not limited to,

(i)–(vii) [Unchanged.]

(b) [Unchanged.]

(4)–(8) [Unchanged.]

(9) ~~An authorized~~ petition is deemed “filed” when it is delivered to, and accepted by, the clerk of the court.

(10)–(20) [Unchanged.]

(21) “Petition authorized to be filed” refers to written permission given by the court to proceed with placement on the formal calendar file the petition among the court’s public records as permitted by MCR 3.925. Until a petition is authorized, it remains on the informal calendar must be filed with the clerk and maintained as a nonpublic record, accessible only by the court and parties. After authorization, a petition and any associated records may be made non-public only as permitted by rule or statute.

### Rule 3.925 Open Proceedings; Judgments and Orders; Records Confidentiality; Destruction of Court Records; Setting Aside Adjudications

(A)–(C) [Unchanged.]

(D) Public Access to Case File Records; ~~Social Confidential~~ File.

(1) General. ~~Except as otherwise required by MCR 3.903(A)(21), case file records maintained~~ Records of a case brought before the court under Chapter XIIIA of the Probate Code, MCL 712A.1 et seq., are only open to persons having a legitimate interest ~~other than confidential files, must be open to the general public.~~ “Persons having a legitimate interest” includes, but is not limited to, the juvenile, the juvenile’s parent, the juvenile’s guardian or legal custodian, the juvenile’s



guardian ad litem, counsel for the juvenile, the department or a licensed child caring institution or child placing agency under contract with the department to provide for the juvenile's care and supervision if related to an investigation of child neglect or child abuse, law enforcement personnel, a prosecutor, a member of a local foster care review board established under 1984 PA 422, MCL 722.131 to 722.139a, the Indian child's tribe if the juvenile is an Indian child, and a court of this state.

- (2) ~~Social Confidential~~ Files. Confidential files are defined in MCR 3.903(A)(3) and include the social case file and those records in the legal case file made confidential by statute, court rule, or court order. Only persons who are found by the court to have a legitimate interest may be allowed access to the confidential files. In determining whether a person has a legitimate interest, the court shall consider the nature of the proceedings, the welfare and safety of the public, the interest of the minor, and any restriction imposed by state or federal law.

(E) [Unchanged.]

(F) Setting Aside Adjudications and Convictions.

- (1) Adjudications. The setting aside of juvenile adjudications is governed by MCL 712A.18e and MCL 712A.18t.

(2) [Unchanged.]

(G) [Unchanged.]

STAFF COMMENT: The amendments of MCR 3.903 and 3.925 make the rules consistent with MCL 712A.28(d) by requiring that previously-public juvenile case records be made nonpublic and accessible only to those with a legitimate interest. The effective date makes the rule change consistent with the statutory revision effective date in 2020 PA 362.

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 July 1, 2021, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2021-09. 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.

### Amendment of Rule 3.944 of the Michigan Court Rules (Dated March 10, 2021)

On order of the Court, this is to advise that the amendment of Rule 3.944 of the Michigan Court Rules is adopted, effective April 4, 2021. Concurrently, individuals are invited to comment on the form or the merits of the amendment during the usual comment period. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for public hearing are posted at Administrative Matters & Court Rules page.

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

#### Rule 3.944 Probation Violation

(A) [Unchanged.]

(B) Detention Hearing; Procedure. At the detention hearing:

(1)–(4) [Unchanged.]

(5) The juvenile must be allowed an opportunity to deny or otherwise plead to the probation violation. If the juvenile wishes to admit the probation violation or plead no contest, the court must comply with subrule (D) before accepting the plea.

(a)–(b) [Unchanged.]

(c) If the juvenile is taken into custody for violating a court order under MCL 712A.2(a)(2) to (4) and is detained in a secure facility, the petitioner shall ensure that an appropriately trained, licensed, or certified mental health or substance abuse professional interviews the juvenile in person within 24 hours to assess the immediate mental health and substance abuse needs of the juvenile. The assessment may alternatively be done upon filing of the petition, prior to any order for placement in a secure facility. The completed assessment shall be provided to the court within 48 hours of the placement and the court shall conduct a hearing to determine all of the following:

(i) If there is reasonable cause to believe that the juvenile violated the court order.

(ii) The appropriate placement of the juvenile pending the disposition of the alleged violation, including if the juvenile should be placed in a secure facility.

(C)–(D) [Unchanged.]

(E) Disposition of Probation Violation; Reporting.

(1) [Unchanged.]

(2) If, after hearing, the court finds that the juvenile has violated a court order under MCL 712A.2(a)(2) to (4), and the juvenile is ordered to be placed in a secure facility, the order shall include all of the following individualized findings by the court:

(a) The court order the juvenile violated;

(b) The factual basis for determining that there was a reasonable cause to believe that the juvenile violated the court order;

(c) The court's finding of fact to support a determination that there is no appropriate less restrictive alternative placement available considering the best interests of the juvenile;

(d) The length of time, not to exceed 7 days, that the juvenile may remain in the secure facility and the plan for the juvenile's release from the facility; and

(e) The order may not be renewed or extended.

(32) [Renumbered but otherwise unchanged.]

(F) [Unchanged.]

**STAFF COMMENT:** The amendment of MCR 3.944 incorporates new requirements for courts that detain juvenile status offender violators in secure facilities, in accordance with MCL 712A.15(3) and MCL 712A.18(k). The effective date of these amendments is consistent with the effective date of the new statutory provisions included in 2020 PA 389.

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 July 1, 2021, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2021-09. 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 Court Reporting and Recording Board of Review (Dated March 10, 2021)

On order of the Court, effective March 31, 2021 and pursuant to MCR 8.108(G)(2)(a):

- Honorable Gerald M. Prill, circuit court judge, is appointed to a first four-year term that will expire on March 31, 2025,
- Dawn M. Houghton, freelance certified stenographic reporter, is appointed to a first four-year term that will expire on March 31, 2025,
- Amy Shankleton-Novess, freelance certified electronic recorder, is appointed to a first four-year term that will expire on March 31, 2025.

### Rescission of Local Court Rule 3.206 for the Allegan County Circuit Court (Dated March 10, 2021)

On order of the Court, Local Court Rule 3.206 for the Allegan County Circuit Court is rescinded, effective immediately.

## FOCUS ON YOUR PET'S CARE NOT THE COST

Pets' medical emergencies never happen when you expect them. Pet insurance reimburses you for covered vet bills, so you can give your pet the best care possible.

**SAVE 10% WITH YOUR MEMBER DISCOUNT\***

1-877-343-5314  
aspcapetinsurance.com/sbm  
Priority Code: SBMPET

**SBM**  
STATE BAR OF MICHIGAN

PREFERRED PARTNER

**ASPCA** PET HEALTH INSURANCE

\* Discounts apply to base plan premium. Plans are underwritten by the United States Fire Insurance Company and administered by Fairmont Specialty Insurance Agency (FSIA Insurance Agency in CA), companies of Crum & Forster. The ASPCA® does not offer insurance. Through a strategic licensing agreement, in exchange for the use of ASPCA trademarks, the ASPCA is paid a royalty fee of up to 10% of the purchase price, with a minimum of \$335,000 per year.

U0816-SBM04

