

PROPOSED AMENDMENT OF RULE 2.105(G)

Issue

Whether MCR 2.105(G) should be amended to explicitly identify who must be served and how service must be made when a plaintiff sues the State of Michigan, its agencies and departments, or its courts?

Proponent

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Synopsis

MCR 2.105(G) should be amended to read as follows (the proposed new text is underlined):

(G) Public Corporations. Service of process on a public, municipal, quasi-municipal, or governmental corporation, unincorporated board, public body, this state, a political subdivision of this state, an agency or department of this state, may be made by personally serving a summons and a copy of the complaint on:

- (1) the chairperson of the board of commissioners or the county clerk of a county;
- (2) the mayor, the city clerk, or the city attorney of a city;
- (3) the president, the clerk, or a trustee of a village;
- (4) the supervisor or the township clerk of a township;
- (5) the president, the secretary, or the treasurer of a school district;
- (6) the president or the secretary of the Michigan State Board of Education;
- (7) the president, the secretary, or other member of the governing body of a corporate body or an unincorporated board having control of a state institution;
- (8) the director of a state agency or department;
- (9) the clerk of the Court of Appeals;
- (10) the clerk of the Supreme Court;
- (11) if against this state rather than a specific agency or department, on the Governor;

~~(8)(12)~~ the president, the chairperson, the secretary, the manager, or the clerk of any other public body organized or existing under the constitution or laws of Michigan, when no other method of service is specially provided by statute.

Background

MCR 2.105(G) governs service of process on public, municipal, quasi-municipal, and governmental corporations, unincorporated boards, and public bodies. The rule identifies specific categories of entities — counties, cities, villages, townships, school districts, and the like — and designates the officer within each entity upon whom service may be made. A catch-all provision in subsection (G)(8) extends the rule’s reach to “any other public body organized or existing under the constitution or laws of Michigan, when no other method of service is specially provided by statute.”

Despite this framework, MCR 2.105 does not define the term “public body” anywhere in the rule. That omission creates two related problems: it leaves unclear which entities the rule covers, and it provides no guidance on how to serve those entities the rule fails to mention explicitly. The catch-all in current subsection (G)(8), now proposed to be (G)(12), compounds rather than resolves these problems — it neither defines “public body” nor identifies who within a given entity must receive service.

Michigan law elsewhere excludes both the judicial branch and the Governor from the definition of “public body.” For example, the Legislature, through the Freedom of Information Act, expressly excludes the Governor, the Lieutenant Governor, their executive offices, and their employees from the definition of “public body.” MCL 15.232(h)(i). The FOIA equally excludes the judiciary — including the office of the county clerk and its employees when acting as clerk to the circuit court. MCL 15.232(h)(iv). While the Supreme Court may intend MCR 2.105(G) to cover all aspects of state government, the rule’s current language does not explicitly address service on the Governor, state agencies and departments, or the courts themselves. The absence of explicit guidance, combined with statutory definitions like FOIA that expressly exclude those entities from the meaning of “public body,” creates uncertainty for litigants who have no clear rule-based roadmap for serving them.

The practical consequences of these gaps are significant. Because of the lack of clear language, litigants suing the State of Michigan, its agencies, or its departments may end up serving a wide variety of state personnel, including lower-level staff with no authority to accept process. Those defective attempts generate disputes over whether service was proper and whether the court obtained jurisdiction, producing unnecessary motion practice, delay, and in some cases dismissal of otherwise meritorious claims.

The proposed amendment addresses these problems on multiple bases by expressly identifying the official responsible for each category of defendant. When a plaintiff names a specific state agency or department, service goes to the agency’s director. MCL 16.103 (agency directors as responsible officials for their respective departments). When a plaintiff names the Court of Appeals or the Supreme Court, service goes to that court’s clerk. When a plaintiff sues the State of Michigan generally rather than a specific agency, service goes to the Governor as the state’s chief executive. Const 1963, art V, § 1. These additions align Michigan’s court rules with the practical structure of state government, eliminate guesswork for litigants and process servers, promote uniform practice across the state’s courts, and ensure that the entity being sued receives meaningful notice through a responsible official.

Opposition

None known.

Prior Action by Representative Assembly

None known.

Fiscal and Staffing Impact on State Bar of Michigan

None known.

STATE BAR OF MICHIGAN POSITION

By vote of the Representative Assembly on April 25, 2026

Should the Representative Assembly adopt the above resolution amending MCR 2.105(G) to explicitly identify who must be served and how service must be made when a plaintiff sues the State of Michigan, its agencies and departments, or its courts?

(a) Yes

or

(b) No