PROPOSED AMENDMENTS TO RULE 8.119(H) OF THE MICHIGAN COURT RULES

Issue

Should the Representative Assembly adopt the proposal to amend MCR 8.119(H) to add a subsection (11) to make a court record nonpublic when a case is adjudicated by dismissal, acquittal, or nolle prosequi?

Proponent

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Synopsis

The revised proposal allows courts to make their records nonpublic after a dismissal, acquittal, nolle prosequi. Sealing the court record is the final step in providing an individual with a "clean slate" in cases where biometric data and/or arrest records are made nonpublic upon the court's order.

Rule 8.119 Court Records and Reports; Duties of Clerks
(H) Access to Records. Except as otherwise provided in subrule (F), only case records as defined in subrule (D) are public records, subject to access in accordance with these rules.

(1) – (10) [Unchanged}

11) Dismissals, Acquittals, and Nolle Prosequi

a. If an individual has been charged with any crime and the case is dismissed, the court shall make the record nonpublic.

b. If an individual has been charged with any crime and found not guilty of all charges at a trial by bench or jury, the court shall make the record nonpublic.

c. If an individual has had a conviction vacated following successful appeal of the conviction, the court shall make the record nonpublic.

d. Any person may move to unseal a record sealed under part (a) of this rule. The motion must demonstrate by clear and convincing evidence that unsealing the record is in the public interest.

e. A person licensed to practice law in the State of Michigan may move to unseal a record sealed under part (a) of this rule. The motion must demonstrate that the applicant has a legitimate legal justification for the unsealing, e.g., the investigation of a crime or the investigation of a legal claim related to the record, or that the unsealing is otherwise in the public interest.

f. In deciding a motion under section (d) or (e), the Court must balance the defendant's privacy rights and the applicant's right to and interests in the information. If the Court unseals any part of a record, it shall do so in the manner that best protects the privacy interests of the defendant, e.g., by unsealing only part of a record or by redacting parts of the record or by limiting the disclosure of the record to the person(s) who made the request.

g. This rule requires the court to make nonpublic all records of dismissals, acquittals, and convictions vacated after the appeal entered after the effective date of this rule. Any person subject to a dismissal or an acquittal entered before the effective date of this rule may request by motion that the record of that dismissal or acquittal be made nonpublic.

Background

Following the April 26, 2025 meeting, a workgroup of interested Representative Assembly members was formed to develop recommendations for a revised proposal. The group met twice in June and engaged in robust discussions.

Opposition

There were 13 comments submitted on the original proposal: eight supported the proposal as drafted, and two opposed it, including the Access to Justice Committee. Three comments included suggestions related to accessibility for members of the State Bar of Michigan, clear definitions of dismissal and court records, and the handling of plea agreements.

Prior Action by Representative Assembly

This proposal was introduced initially at the Assembly's April 26, 2025 meeting. Action on the proposal was deferred to convene a workgroup tasked with drafting a revised proposal.

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 to amend MCR 8.119(H) to add subsection (11) to make a court record nonpublic when a case is adjudicated by dismissal, acquittal, or nolle prosequi?

(a) Yes
or
(b) No