

### Proposed Amendments of Subchapter 7.300 of the Michigan Court Rules

To read ADM File No. 2013-36, dated October 22, 2014, visit <http://courts.michigan.gov/courts/michigansupremecourt> and click “Administrative Matters & Court Rules” and “Proposed & Recently Adopted Orders on Admin Matters.”

### Administrative Order No. 2014-20 Adoption of Concurrent Jurisdiction Plan for the 35th Circuit Court, the 66th District Court, and the Shiawassee County Probate Court (Dated October 22, 2014)

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- The 35th Circuit Court, the 66th District Court, and the Shiawassee County Probate Court.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq.*

### Administrative Order No. 2014-21 Adoption of Concurrent Jurisdiction Plan for the 18th District Court and the 29th District Court (Dated October 22, 2014)

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- The 18th District Court and the 29th District Court.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq.*

### Administrative Order No. 2014-22 Rescission of Administrative Order No. 2006-3 (Michigan Uniform System of Citation)

On order of the Court, dated November 5, 2014, effective immediately, Administrative Order No. 2006-3, the order setting forth the Michigan Uniform System of Citation, is rescinded. The Court currently uses, and encourages others to use, the Michigan Appellate Opinion Manual, which sets forth the Court’s standards for citation

of authority, quotation, and style in opinions of the Supreme Court and the Court of Appeals. The manual is now available in a searchable online format, and may be found at [www.courts.mi.gov](http://www.courts.mi.gov).

### Proposed Amendment of Rule 3.211 of the Michigan Court Rules

On order of the Court, dated October 22, 2014, this is to advise that the Court is considering an amendment of Rule 3.211 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 3.211 Judgments and Orders

- (A) Each separate subject in a judgment or order must be set forth in a separate paragraph that is prefaced by an appropriate heading.
- (B) A judgment of divorce, separate maintenance, or annulment must include
- (1) the insurance and dower provisions required by MCL 552.101;
  - (2) a determination of the rights of the parties in pension, annuity, and retirement benefits, as required by MCL 552.101(4);
  - (3) a determination of the property rights of the parties, which may include under MCL 600.5070 *et seq.*, the parties’ stipulation for binding postjudgment arbitration of identified categories of personal property; and
  - (4) a provision reserving or denying spousal support, if spousal support is not granted; a judgment silent with regard to spousal support reserves it.
- (C)–(H) [Unchanged.]

STAFF COMMENT: The proposed amendment of MCR 3.211 would provide language to allow the parties to stipulate (in their judgment of divorce, separate maintenance, or annulment) to post-judgment binding arbitration of identified personal property under MCL 600.5070 *et seq.*

The staff comment is not an authoritative construction by the 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 February 1, 2015, at P.O. Box 30052, Lansing, MI 48909, or [ADMcomment@courts.mi.gov](mailto:ADMcomment@courts.mi.gov). When filing a comment, please

refer to ADM File No. 2014-12. 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.

### Proposed Amendments of Rules 3.963, 3.966, and 3.974 of the Michigan Court Rules

On order of the Court, dated October 22, 2014, this is to advise that the Court is considering an amendment of Rules 3.963, 3.966, and 3.974 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 3.963 Acquiring Physical Custody of Child

(A) [Unchanged.]

(B) Court-Ordered Custody.

(1) Order to Take Child into Protective Custody. The court may issue a written order, electronically or otherwise, authorizing a child protective services worker, an officer, or other person deemed suitable by the court to immediately take a child into protective custody when, after presentment of a petition or affidavit of facts to the court, the court has reasonable cause to believe that all the following conditions exist, together with specific findings of fact:

(a) [Unchanged.]

(b) The circumstances warrant issuing an order pending the hearing in accordance with:

(i) MCR 3.965 for a child who is not yet under the jurisdiction of the court, or

(ii) MCR 3.974(C) for a child who is already under the jurisdiction of the court pursuant to MCR 3.971 or MCR 3.972.

(c)–(e) [Unchanged.]

(2) [Unchanged.]

(3) The court shall inquire whether a member of the child's immediate or extended family is available to take custody of the child pending a preliminary hearing, or an emergency removal hearing if the court already has jurisdiction over the child pursuant to MCR 3.971 or MCR 3.972, whether there has been a central registry clearance, and whether a criminal history check has been initiated.

(4) [Unchanged.]

(C)–(D) [Unchanged.]

#### Rule 3.966 Other Placement Review Proceedings

(A) Review of Placement Order and Initial Service Plan.

(1) On motion of a party, the court must review the placement order or the initial service plan, and may modify the order and plan if it is in the best interest of the child. ~~and, if removal from the parent, guardian, or legal custodian is requested, at the hearing on the motion, the court shall follow the placement procedures in MCR 3.965(B) and (C) determine whether the conditions in MCR 3.965(C)(2) exist.~~

(2) If the child is removed from the home and disposition is not completed, ~~the progress of the child must be reviewed no later than 182 days from the date the child was removed from the home~~ court shall conduct a dispositional hearing in accordance with MCR 3.973.

(B)–(C) [Unchanged.]

#### Rule 3.974 Post-Dispositional Procedures; for Child at Home; Petition Authorized

(A) Review of Child's Progress.

(1) General. The court shall periodically review the progress of a child not in foster care over whom it has ~~retained~~ taken jurisdiction.

(2) Time. If the child was never removed from the home, the progress of the child must be reviewed no later than 182 days from the date the petition was ~~filed~~ authorized and no later than 91 days after that for the first year that the child is subject to the jurisdiction of the court. After that first year, a review hearing shall be held no later than 182 days from the immediately preceding review hearing before the end of the first year and no later than every 182 days from each preceding hearing until the court terminates its jurisdiction. The review shall occur no later than 182 days after the child returns home when the child is no longer in foster care. If the child was removed from the home and subsequently returned home, review hearings shall be held in accordance with MCR 3.975.

(3) Change of Placement. Except as provided in subrule (B), the court may not order a change in the placement of a child ~~solely on the basis of a progress review without a hearing. If the child over for whom the court has retained jurisdiction~~ authorized a petition remains at home following the initial dispositional hearing or has otherwise returned home from foster care, and it comes to the court's attention at a review hearing held pursuant to subrule (A)(2), or as otherwise provided in this rule, that the child should be removed from the home, the court must conduct a hearing before it may order the placement of the child. If the court orders the child to be placed out of the home following a review hearing held pursuant to subrule (A)(2), the parent must be present and the court shall comply with the placement provisions in MCR 3.965(C).

If the parent is not present, the court shall proceed under subrule (C) before it may order removal. ~~Such a hearing must be conducted in the manner provided in MCR 3.975(E), except as otherwise provided in this subrule for Indian children.~~ If the child is an Indian child, in addition to the hearing prescribed by ~~held~~ in accordance with this ~~subrule~~, the court must also conduct a removal hearing in accordance with MCR 3.967 before it may order the placement of the Indian child.

(B) Hearing on Petition for Out-of-Home Placement.

(1) Preadjudication. If a child for whom a petition has been authorized pursuant to MCR 3.962 or MCR 3.965 is not yet under the jurisdiction of the court and an amended petition has been filed to remove the child from the home, the court shall conduct a hearing on the petition in accordance with MCR 3.965.

(2) Postadjudication. If a child is under the jurisdiction of the court and a supplemental petition has been filed to remove the child from the home, the court shall conduct a hearing on the petition. The court shall ensure that the parties are given notice of the hearing as provided in MCR 3.920 and MCR 3.921. Unless the child remains in the home, the court shall comply with the placement provisions in MCR 3.965(C) and must make a written determination that the criteria for placement listed in MCR 3.965(C)(2) are satisfied. If the court orders the child be placed out of the home, the court shall proceed under subrule (D).

(BC) Emergency Removal; Protective Custody.

(1) General. If ~~the~~ a child, ~~over~~ for whom the court has ~~retained~~ jurisdiction authorized an original petition, remains at home following the initial dispositional hearing or has otherwise is returned home from foster care following a hearing pursuant to the rules in this subchapter, the court may order the child to be taken into protective custody pending an emergency removal hearing pursuant to the conditions listed in MCR 3.963(B)(1) and upon receipt, electronically or otherwise, of a petition or affidavit of fact. If the child is an Indian child and the child resides or is domiciled within a reservation, but is temporarily located off the reservation, the court may order the child to be taken into protective custody only when necessary to prevent imminent physical damage or harm to the child.

(2) Notice. The court shall ensure that the parties are given notice of the emergency removal hearing as provided in MCR 3.920 and MCR 3.921.

(3) Emergency Removal Hearing. If the court orders the child to be taken into protective custody pursuant to MCR 3.963, the court must conduct an emergency removal hearing no later than 24 hours after the child has been taken into custody, excluding Sundays and holidays as defined in MCR 8.110(D)(2). If the child is an Indian child, the court must also conduct a removal hearing in accordance with

MCR 3.967 in order for the child to remain removed from a parent or Indian custodian.

(a) Preadjudication. If a child for whom a petition has been authorized pursuant to MCR 3.962 or MCR 3.965 is not yet under the jurisdiction of the court, the emergency removal hearing shall be conducted in the manner provided by MCR 3.965.

(b) Postadjudication. If a child is under the jurisdiction of the court, unless the child is returned to the parent pending disposition or the dispositional review, the court shall comply with the placement provisions in MCR 3.965(C) and must make a written determination that the criteria for placement listed in MCR 3.965(C)(2) are satisfied.

The parent, guardian, or legal custodian from whom the child was removed must be given an opportunity to state why the child should not be removed from, or should be returned to, the custody of the parent, guardian, or legal custodian.

(a) ~~At the emergency removal hearing,~~ The respondent parent, guardian, or legal custodian from whom the child is removed must receive a written statement of the reasons for removal and be advised of the following rights at a hearing to be held pursuant to subrule (D):

- (i) to be represented by an attorney at the dispositional review hearing;
- (ii) to contest the continuing placement at the dispositional review hearing within 14 days; and
- (iii) to use compulsory process to obtain witnesses for the dispositional review hearing.

(b) ~~At an emergency removal hearing,~~ the parent, guardian, or legal custodian from whom the child was removed must be given an opportunity to state why the child should not be removed from, or should be returned to, the custody of the parent, guardian, or legal custodian.

(CD) Dispositional Review Hearing; Procedure Following Postadjudication Out-of-Home Placement. If the child is in placement pursuant to subrule (B)(2) or (C)(3)(b), the court shall proceed as follows:

(1) If the court has not held a dispositional hearing pursuant to MCR 3.973, the court shall conduct the dispositional hearing within 28 days after the child is placed by the court, except for good cause shown.

(2) If the court has already held a dispositional hearing pursuant to MCR 3.973, a dispositional review hearing must commence no later than 14 days after the child is placed by the court, except for good cause shown. The dispositional review hearing may be combined with the removal hearing for an Indian child prescribed by MCR 3.967. The dispositional review hearing must be conducted in accordance with the procedures and rules of evidence applicable to a dispositional hearing.

STAFF COMMENT: The proposed amendments of MCR 3.963, MCR 3.966, and MCR 3.974 would provide clarity regarding procedures to be followed when an emergency removal of a child has occurred but a dispositional hearing has not been held.

The staff comment is not an authoritative construction by the 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 February 1, 2015, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2014-37. 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.

**Amendment of Rule 2.507 of the Michigan Court Rules**

On order of the Court, dated October 22, 2014, following a request for input to various stakeholders and as indicated in the order entered June 29, 2011, that stated the “Court will review the efficacy of the rules adopted in this order in the fall of 2014,” and with continued consideration having been given to the results of the pilot project that was authorized by Administrative Order No. 2008-2, the following amendment of Rule 2.507 of the Michigan Court Rules is adopted, effective January 1, 2015.

[Additions are indicated by underlining and deletions are indicated by strikeover.]

**Rule 2.507 Conduct of Trials**

(A)–(C) [Unchanged.]

(D) Court View. On application of either party or on its own initiative, the court sitting as trier of fact without a jury may view property or a place where a material event occurred.

(D)–(F) [Relettered (E)–(G), but otherwise unchanged.]

STAFF COMMENT: This amendment allows a court view when a court is sitting as trier of fact instead of a jury. The provision, which had been included in former MCR 2.513, was eliminated with the adoption of various jury reform proposals in 2011.

The staff comment is not an authoritative construction by the Court.

**Assignment of Business Court Judge in the 3rd Circuit Court**

On order of the Court, dated October 17, 2014, effective January 1, 2015, the Honorable Maria L. Oxholm is assigned to serve in the role of business court judge in the 3rd Circuit Court for the remainder of a six-year term expiring April 1, 2019.

**Assignment of Business Court Judge in the 37th Circuit Court**

On order of the Court, dated October 22, 2014, effective January 1, 2015, the Honorable Brian K. Kirkham is assigned to serve in the role of business court judge in the 37th Circuit Court for the remainder of a six-year term expiring April 1, 2019.



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