

Order

Michigan Supreme Court
Lansing, Michigan

January 18, 2023

Elizabeth T. Clement,
Chief Justice

ADM File No. 2022-16

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Megan K. Cavanagh
Elizabeth M. Welch
Kyra H. Bolden,
Justices

Proposed Amendment of
Rule 7.211 of the Michigan
Court Rules

On order of the Court, this is to advise that the Court is considering an amendment of Rule 7.211 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 will also be considered at a public hearing. The notices and agendas for each public hearing are posted on the [Public Administrative Hearings](#) webpage. 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 7.211 Motions in Court of Appeals

(A)-(B) [Unchanged.]

(C) Special Motions. If the record on appeal has not been sent to the Court of Appeals, except as provided in subrule (C)(6), the party making a special motion shall request the clerk of the trial court or tribunal to send the record to the Court of Appeals. A copy of the request must be filed with the motion.

(1)-(6) [Unchanged.]

(7) Confession of Error by Prosecutor. In a criminal case, if the prosecutor concurs in the relief requested by the defendant, the prosecutor shall file a confession of error so indicating, which ~~must~~may state reasons why concurrence in the relief requested is appropriate. The confession of error shall be submitted to ~~the court~~one judge pursuant to MCR 7.211(E)(1). If the ~~court~~judge approves the confession of error, the ~~court~~judge shall enter an order or opinion granting the relief and state the reason(s) for the approval. If the ~~court~~judge rejects the confession of error, the court must state the

reason(s) for the rejection, and the case shall be submitted for decision through the ordinary processes of the court, and the confession of error shall be submitted to the panel assigned to decide the case.

(8)-(9) [Unchanged.]

(D)-(E) [Unchanged.]

Staff Comment (ADM File No. 2022-16): The proposed amendment of MCR 7.211(C)(7) would modify the Court of Appeals' process for handling confessions of error.

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 proposal may be submitted by May 1, 2023 by clicking on the "Comment on this Proposal" link under this proposal on the [Court's Proposed & Adopted Orders on Administrative Matters](#) page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at ADMcomment@courts.mi.gov. When submitting a comment, please refer to ADM File No. 2022-16. Your comments and the comments of others will be posted under the chapter affected by this proposal.



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

January 18, 2023

Handwritten signature of Larry S. Royster in black ink.

Clerk