

Order

Michigan Supreme Court
Lansing, Michigan

April 17, 2024

Elizabeth T. Clement,
Chief Justice

ADM File No. 2022-12

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

Proposed Amendment of
Rule 7.118 of the Michigan
Court Rules

On order of the Court, this is to advise that the Court is considering an amendment of Rule 7.118 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](#) 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 7.118 Appeals from the Michigan Parole Board

(A)-(B) [Unchanged.]

(C) Access to Reports and Guidelines. Upon request, the prosecutor, the victim, counsel for the prisoner, and the prisoner shall receive the parole eligibility report, any prior parole eligibility reports that are mentioned in the parole board's decision, and any parole guidelines that support the action taken.

(D)-(E) [Unchanged.]

(F) Record on Appeal. The record on appeal shall consist of the prisoner's central office file at the Department of Corrections and any other documents considered by the parole board in reaching its decision.

(1) Within 14 days of being served with a prosecutor's application for leave to appeal, the parole board shall send copies of the record to the circuit court and the other parties.

(2) In all other appeals, within 14 days after being served with an order granting

leave to appeal, the parole board shall send copies of the record to the circuit court and the other parties.

- (3) The confidential portion of the parole board file, including victim information, shall be filed under seal and made available only to counsel for the parties and the court. The parole board shall provide a prisoner who is responding in propria persona with a copy of the confidential portion of the parole board file with any victim contact information redacted. The confidential portion of the parole board file shall not be otherwise distributed.
- (4) Any of the prisoner's medical, psychological, and treatment records that are part of the record on appeal shall be filed under seal and shall be made available only to counsel for the parties, a prisoner who is responding in propria persona, and the court. The prisoner's medical, psychological, and treatment records shall not be otherwise distributed.
- (5) In all other respects, the record on appeal shall be processed in compliance with MCR 7.109.

(F)-(G) [Relettered (G)-(H) but otherwise unchanged.]

(IH) Procedure After Leave to Appeal Granted. If leave to appeal is granted, MCR 7.105(E)(4) applies along with the following:

- (1) ~~Record on Appeal.~~
 - (a) ~~The record on appeal shall consist of the prisoner's central office file at the Department of Corrections and any other documents considered by the parole board in reaching its decision.~~
 - (b) ~~Within 14 days after being served with an order granting leave to appeal, the parole board shall send copies of the record to the circuit court and the other parties. In all other respects, the record on appeal shall be processed in compliance with MCR 7.109.~~
 - (c) ~~The expense of preparing and serving the record on appeal may be taxed as costs to a nonprevailing appellant, except that expenses may not be taxed to an indigent party.~~

(2)-(4) [Renumbered (1)-(3) but otherwise unchanged.]

(I)-(J) [Relettered (J)-(K) but otherwise unchanged.]

Staff Comment (ADM File No. 2022-12): The proposed amendment of MCR 7.118 would allow the prisoner’s attorney access to the parole eligibility report(s) and guidelines, require MDOC to provide the record on appeal within 14 days of being served with a prosecutor’s application for leave to appeal the parole board’s decision, require in all other appeals that MDOC provide the record on appeal within 14 days of the court granting the application for leave to appeal, and require confidential portions of the record to be filed under seal with access limited to certain people.

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 August 1, 2024 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. 2022-12. 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.

April 17, 2024

Handwritten signature of Larry S. Royster in black ink.

Clerk