

Order

Michigan Supreme Court
Lansing, Michigan

June 29, 2022

Bridget M. McCormack,
Chief Justice

ADM File No. 2021-22

Amendments of Rules 1.109, 2.003, 2.106, 2.117, 2.403, 3.201, 3.706, 3.707, 3.935, 3.943, 3.955, 3.965, 3.972, 5.143, 7.118, 7.202, 7.208, and 8.119 of the Michigan Court Rules, Amendments of Administrative Order No. 2004-2 and Administrative Order No. 2014-8 and Rescission of Rules 2.302, 2.401, 2.503, 2.506, 2.511, and 6.101 of the Local Court Rules for District Courts

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

On order of the Court, the following amendments are adopted, effective July 1, 2022.

[Additions to the text are indicated in underlining
and deleted text is shown by strikeover.]

Rule 1.109 Court Records Defined; Document Defined; Filing Standards; Signatures; Electronic Filing and Service; Access

(A)-(C) [Unchanged.]

(D) Filing Standards.

(1)-(8) [Unchanged.]

(9) Personal Identifying Information.

(a)-(d) [Unchanged.]

(e) Protected personal identifying information provided to the court as required by subrule (~~be~~) shall be entered into the court's case management system in accordance with standards established by the State Court Administrative Office. The information shall be maintained for the purposes for which it was collected and for which its use is authorized by federal or state law or court rule; however, it shall not be included or displayed as case history under MCR 8.119(D)(1).

(10) [Unchanged.]

(E)-(G) [Unchanged.]

(H) Definitions. The following definitions apply to case records as defined in MCR 8.119(D) and (E).

(1) “Confidential” means that a case record is nonpublic and accessible only to those individuals or entities specified in statute or court rule. A confidential record is accessible to parties only in the manners specified in statute or court rule.

(2)-(5) [Unchanged.]

Rule 2.003 Disqualification of Judge

(A)-(C) [Unchanged.]

(D) Procedure.

(1)(a) [Unchanged.]

(b) Time for Filing in the Court of Appeals. All motions for disqualification must be filed within 14 days of disclosure of the judge’s assignment to the case or within 14 days of the discovery of the grounds for disqualification. If a party discovers the grounds for disqualification within 14 days of a scheduled oral argument or argument on the application for leave to appeal, the motion must be made forthwith.

(c)-(d) [Unchanged.]

(2)-(4) [Unchanged.]

(E) [Unchanged.]

Rule 2.106 Notice by Posting or Publication

(A) Availability. This rule governs service of process by publication or posting pursuant to an order under MCR 2.105(J).

- (B) Procedure. A request for an order permitting service under this rule shall be made by motion in the manner provided in MCR 2.105(J). In ruling on the motion, the court shall determine whether mailing is required under subrules (D)(2) or (E)(2).

(C)-(G) [Unchanged.]

Rule 2.117 Appearances

(A) [Unchanged.]

(B) Appearance by Attorney.

(1)-(2) [Unchanged.]

(3) Appearance by Appointing Authority.

(a)-(b) [Unchanged.]

(c) In actions where an attorney is appointed for a single hearing, the attorney should orally inform the court of the limited appointment at the time of the hearing. It is not necessary for the appointing authority to file a notice of appointment or for the attorney to file an appearance.

(4) [Unchanged.]

(C)-(E) [Unchanged.]

Rule 2.403 Case Evaluation

(A)-(K) [Unchanged.]

(L) Acceptance or Rejection of Evaluation.

(1)-(2) [Unchanged.]

(3) In case evaluations involving multiple parties the following rules apply:

(a)-(b) [Unchanged.]

(c) ~~If a party makes a limited acceptance under subrules (L)(3)(b) and some of the opposing parties accept and others reject, for purposes of the cost provisions of subrule (O) the party who made the limited~~

~~acceptance is deemed to have rejected as to those opposing parties who accept.~~

(M)-(N) [Unchanged.]

Rule 3.201 Applicability of Rules

(A)-(C) [Unchanged.]

(D) When used in this subchapter, unless the context otherwise indicates:

(1) “Case” means an action commenced in the family division of the circuit court by filing one of the following case initiating documents:

(a)-(d) [Unchanged.]

(e) ~~filing~~ a consent judgment under MCR 3.223;

(f)-(g) [Unchanged.]

(2)-(4) [Unchanged.]

Rule 3.706 Orders

(A)-(C) [Unchanged.]

(D) Service. The petitioner shall serve the order on the respondent as provided in MCR 2.105(A). If the respondent is a minor, and the whereabouts of the respondent’s parent or parents, guardian, or custodian is known, the petitioner shall also in the same manner serve the order on the respondent’s parent or parents, guardian, or custodian. On an appropriate showing, the court may allow service in another manner as provided in MCR 2.105(~~J~~). Failure to serve the order does not affect its validity or effectiveness.

(E) [Unchanged.]

Rule 3.707 Modification, Termination, or Extension of Order

(A) Modification or Termination.

(1) Time for Filing and Service.

(a)-(b) [Unchanged.]

- (c) The moving party shall serve the motion to modify or terminate the order and the notice of hearing at least 7 days before the hearing date as provided in MCR 2.105(A)(2) at the mailing address or addresses provided to the court. On an appropriate showing, the court may allow service in another manner as provided in MCR 2.105(J). If the moving party is a respondent who is issued a license to carry a concealed weapon and is required to carry a weapon as a condition of employment, a police officer certified by the Michigan law enforcement training council act of 1965, 1965 PA 203, MCL 28.601 to 28.616, a sheriff, a deputy sheriff or a member of the Michigan department of state police, a local corrections officer, department of corrections employee, or a federal law enforcement officer who carries a firearm during the normal course of employment, providing notice one day before the hearing is deemed as sufficient notice to the petitioner.

(2)-(3) [Unchanged.]

(B)-(D) [Unchanged.]

Rule 3.935 Preliminary Hearing

(A) Time.

(1)-(2) [Unchanged.]

- (3) Special Adjournment; Specified Juvenile Violation. This subrule applies to a juvenile accused of an offense that allegedly was committed between the juvenile's 14th and 18th birthdays and that would constitute a specified juvenile violation listed in MCL 712A.2(a)(1).

(a)-(c) [Unchanged.]

(B)-(F) [Unchanged.]

Rule 3.943 Dispositional Hearing

(A)-(D) [Unchanged.]

(E) Dispositions.

(1)-(6) [Unchanged.]

(7) Mandatory Detention for Use of a Firearm.

- (a) In addition to any other disposition, a juvenile, other than a juvenile sentenced in the same manner as an adult under MCL 712A.18(1)(~~om~~), shall be committed under MCL 712A.18(1)(e) to a detention facility for a specified period of time if all the following circumstances exist:

(i)-(iii) [Unchanged.]

(b)-(c) [Unchanged.]

Rule 3.955 Sentencing or Disposition in Designated Cases

- (A) Determining Whether to Sentence or Impose Disposition. If a juvenile is convicted under MCL 712A.2d, sentencing or disposition shall be made as provided in MCL 712A.18(1)(~~om~~) and the Crime Victim's Rights Act, MCL 780.751 *et seq.*, if applicable. In deciding whether to enter an order of disposition, or impose or delay imposition of sentence, the court shall consider all the following factors, giving greater weight to the seriousness of the offense and the juvenile's prior record:

(1)-(6) [Unchanged.]

The court also shall give the juvenile, the juvenile's lawyer, the prosecutor, and the victim an opportunity to advise the court of any circumstances they believe the court should consider in deciding whether to enter an order of disposition or to impose or delay imposition of sentence.

(B)-(E) [Unchanged.]

Rule 3.965 Preliminary Hearing

(A)-(B) [Unchanged.]

(C) Pretrial Placement.

(1) [Unchanged.]

- (2) Criteria. The court may order placement of the child into foster care if the court finds all of the following:

(a)-(e) [Unchanged.]

(3)-(8) [Unchanged.]

(D) [Unchanged.]

Rule 3.972 Trial

(A)-(E) [Unchanged.]

(F) Respondent's Rights Following Trial. If the trial results in a verdict that one or more statutory grounds for jurisdiction has been proven, the court shall advise the respondent orally or in writing that:

(1) [Unchanged.]

(2) ~~that~~ an indigent respondent is entitled to appointment of an attorney to represent the respondent on any appeal as of right and to preparation of transcripts, and

(3) [Unchanged.]

(G) [Unchanged.]

Rule 5.143 Alternative Dispute Resolution

(A) [Unchanged.]

(B) If a dispute is submitted to case evaluation, MCR 2.403 and 2.404 shall apply to the extent feasible, ~~except that sanctions must not be awarded unless the subject matter of the case evaluation involves money damages or division of property.~~

Rule 7.118 Appeals from the Michigan Parole Board

(A)-(H) [Unchanged.]

(I) Subsequent Appeal to the Court of Appeals. An appeal of a circuit court decision is by application for leave to appeal ~~motion for immediate consideration in~~ to the Court of Appeals under MCR 7.205(F), and the Court of Appeals shall expedite the matter.

(J) [Unchanged.]

Rule 7.202 Definitions

For purposes of this subchapter:

(1)-(5) [Unchanged.]

(6) “final judgment” or “final order” means:

(a) In a civil case,

(i)-(iii) [Unchanged.]

(iv) a postjudgment order awarding or denying attorney fees and costs under court rule ~~MCR 2.403, 2.405, 2.625~~ or other law ~~or court rule~~; or

(v) [Unchanged.]

(b) [Unchanged.]

Rule 7.208 Authority of Court or Tribunal Appealed From

(A)-(I) [Unchanged.]

(J) Attorney Fees and Costs. The trial court may rule on requests for costs or attorney fees under court rule ~~MCR 2.403, 2.405, 2.625~~ or other law ~~or court rule~~, unless the Court of Appeals orders otherwise.

Rule 8.119 Court Records and Reports; Duties of Clerks

(A)-(C) [Unchanged.]

(D) [Unchanged.]

(1) [Unchanged.]

(a) Case History. The clerk shall create and maintain a case history of each case, known as a register of actions, in the court’s automated case management system. The automated case management system shall be capable of chronologically displaying the case history for each case and shall also be capable of searching a case by number or party name (previously known as numerical and alphabetical indices) and displaying the case number, date of filing, names of parties, and names of any attorneys of record. The case history shall contain both pre- and post-judgment information and shall, at a minimum, consist

of the data elements prescribed in the Michigan Trial Court Records Management Standards. Each entry shall be brief, but shall show the nature of each item filed, each item issued by the court, and the returns showing execution. The case history entry of each item filed shall be dated with the date of filing (if relevant) and the date and initials of the person recording the action, except where the entry is recorded by the electronic filing system. In that instance, the entry shall indicate that the electronic filing system recorded the action. The case history entry of each order, judgment, opinion, notice, or other item issued by the court shall be dated with the date of issuance and the initials of the person recording the action. Protected personal identifying information entered into the court's case management system as required by MCR 1.109(D)(9)(~~e~~) shall be maintained for the purposes for which it was collected and for which its use is authorized by federal or state law or court rule; however, it shall not be included or displayed as case history, including when transferred to the Archives of Michigan pursuant to law.

(b) [Unchanged.]

(2)-(4) [Unchanged.]

(E)-(L) [Unchanged.]

Administrative Order No. 2004-2 – Approval of the Adoption of Concurrent Jurisdiction Plans for Barry, Berrien, Isabella, Lake, and Washtenaw Counties, and for the 46th Circuit Consisting of Crawford, Kalkaska, and Otsego Counties
 [Entered April 28, 2004; effective August 1, 2004. Amended July 1, 2022 to reflect new numbering of Lake County courts. See 2022 PA 7.]

[The existing language of the order remains unchanged with the exception of the paragraph shown below.]

LAKE COUNTY
~~27th~~51st Circuit Court
~~78th~~9th District Court
 Lake County Probate Court

Administrative Order No. 2014-8 – Adoption of Concurrent Jurisdiction Plan for the 27th Circuit Court, the 78th District Court, and the Newaygo County and ~~Lake~~Oceana County Probate Courts
 [Entered March 26, 2014. Amended July 1, 2022 to reflect new numbering of Lake and Oceana County courts. See 2022 PA 7.]

[The existing language of the order remains unchanged with the exception of the paragraph shown below.]

The 27th Circuit Court, the 78th District Court, and the Newaygo County and LakeOceana County Probate Courts.

Local Court Rules for District Courts [All rules related to the Recorder's Court are hereby rescinded.]

~~Local Court Rule 2.302. Discovery of Documents and Exhibits.~~

- (A) ~~On a motion in open court at the arraignment on the information or by a subsequent proper motion, the trial court may order that the prosecution make copies of the following available to defense counsel:~~
- ~~(1) All statements known to the police and prosecutor by all endorsed witnesses;~~
 - ~~(2) All statements by the defendant which have been recorded or written;~~
 - ~~(3) The investigator's report and all preliminary complaint reports (PCR's) concerning the case;~~
 - ~~(4) The defendant's arrest and conviction record;~~
 - ~~(5) All scientific and laboratory reports;~~
 - ~~(6) All corporeal and photographic lineup sheets.~~
- (B) ~~The trial court may also order that the prosecution permit defense counsel to view the following:~~
- ~~(1) All photographs, diagrams, or other visual evidence pertaining to the case that are in police custody;~~
 - ~~(2) All physical or tangible evidence pertaining to the case that are in police custody.~~
- (C) ~~Additionally, the court may order that the prosecution permit defense counsel to view or receive copies of any and all other documents pertaining to the case that are in the possession or control of the police or prosecution. This shall be in effect whenever such documents or items may be material to the defense, regardless of whether they are intended for evidence at trial.~~

~~Local Court Rule 2.401. Pretrial Conferences.~~

- ~~(A) The pretrial stage begins after the arraignment on the information. The purpose of the pretrial conference is to review the legal issues, to advise the court of any motions, and to fix time limitations on such motions and filings. Guilty plea possibilities are to be discussed as well as other matters the court may determine to be necessary to expedite the orderly progression of the case. The pretrial stage consists of three phases:~~
- ~~(1) The calendar conference for setting the calendar of events;~~
 - ~~(2) Motion and evidentiary hearings; and~~
 - ~~(3) Final conference for terminating plea negotiations, certifying readiness for trial, and setting a firm trial date.~~
- ~~(B) Attendance is required. The presence of the defendant, defense counsel, and the prosecutor is required at each conference.~~

~~Local Court Rule 2.503. Continuances and Adjournments.~~

~~Adjournments, postponements, or continuances of any trial or other proceeding shall occur only on a written order of the chief judge or a designee.~~

~~Local Court Rule 2.506. Witnesses and Subpoenas.~~

- ~~(A) Filing of Witness Lists. The court clerk may assume responsibility for the service of subpoenas on witnesses for either party provided that either party, the prosecution, or defense, files in the clerk's office, no later than 28 days prior to the scheduled trial date, a complete list of the respective witnesses for whom subpoenas are sought, together with their addresses.~~
- ~~(B) Subpoenas, Preparation, and Service. When witness lists are filed in accordance with subrule (A), the court clerk shall direct the timely and proper preparation of subpoenas for each of the witnesses listed and shall be responsible for seeing that the proper officers of the Detroit Police Department receive the subpoenas timely with directions that they be promptly served and that a return of service for each subpoena is filed with the court before the trial date or the date of such other proceeding for which the attendance of the witness is required.~~
- ~~(C) Whenever the procedure for service of subpoenas which is outlined in this rule is not followed, and due diligence is not shown with respect to the service of~~

~~subpoenas on any witness, no adjournment, postponement, or continuance will be granted because of the failure of the witness to appear.~~

~~Local Court Rule 2.511. Jurors; Jury Service.~~

- ~~(A) Supervision of Jurors. The chief judge shall supervise persons summoned for jury duty in Recorder's Court and shall exercise the other responsibilities required by law or court rules pertaining to jury service. The trial judge, however, shall supervise jurors summoned before him or her for voir dire and the entire jury selection process, and shall supervise those jurors selected to sit on a case until they are discharged by the trial judge.~~
- ~~(B) Term of Juror Services. Persons summoned for jury duty shall serve one day, or the duration of any trial for which they are jurors.~~
- ~~(C) Communication Between Jurors, Attorneys, and Court Personnel. Deputy clerks, prosecuting or defense attorneys, police officers, or other officials or employees on duty in the Recorder's Court building who must perform any duty, directly or indirectly, with or for any jurors or panel of jurors, shall not converse with them at any time or place during their period of service. Only necessary social civility or the transaction of necessary court business are excepted from this rule.~~

~~Local Court Rule 6.101. Pretrial Proceedings; Arraignment on the Information.~~

- ~~(A) Immediately after a defendant is bound over for trial, the defendant, the defense counsel, and the prosecuting attorney shall be notified of the date and time of arraignment on the information.~~
- ~~(B) When a defendant is confined in jail, he or she shall be arraigned on the information before the chief judge or a designee on the seventh calendar day after the magistrate signs the return; when a defendant is free on bail or recognizance, he or she shall be arraigned on the fourteenth calendar day after the magistrate signs the return. Court holidays shall not be counted in computing time.~~
- ~~(C) At the arraignment on the information, the chief judge, or a designee, may accept a plea of guilty and may consider an application for youthful trainee or diversionary status.~~

Staff Comment: These amendments update cross-references and make other nonsubstantive revisions to clarify the rules.

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.



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.

June 29, 2022

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line.

Clerk