

Order

Michigan Supreme Court
Lansing, Michigan

October 20, 2021

Bridget M. McCormack,
Chief Justice

ADM File No. 2021-31

Proposed Amendment of
Rule 8.110 of the Michigan
Court Rules

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

On order of the Court, this is to advise that the Court is considering an amendment of Rule 8.110 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 hearing are posted on the [Public Administrative Hearings](#) page.

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

Rule 8.110 Chief Judge Rule

(A)-(C) [Unchanged.]

(D) Court Hours; Court Holidays; Judicial Absences.

(1) [Unchanged.]

(2) Court Holidays; Local Modification.

(a) The following holidays are to be observed by all state courts, except those courts which have adopted modifying administrative orders pursuant to MCR 8.112(B):

New Year's Day, January 1;
Martin Luther King, Jr., Day, the third Monday in January in
conjunction with the federal holiday;
Presidents' Day, the third Monday in February;
Memorial Day, the last Monday in May;
Juneteenth, June 19;
Independence Day, July 4;
Labor Day, the first Monday in September;
Veterans' Day, November 11;

Thanksgiving Day, the fourth Thursday in November;
~~Friday after Thanksgiving;~~ [Option A]
~~Christmas Eve, December 24;~~ [Option B]
 Christmas Day, December 25;
~~New Year's Eve, December 31;~~ [Option C]
 [Note that there is also Option D, which would be to add Juneteenth as a holiday and *not* omit another holiday.]

- (b) When New Year's Day, Juneteenth, Independence Day, Veterans' Day, or Christmas Day falls on Saturday, the preceding Friday shall be a holiday. When New Year's Day, Juneteenth, Independence Day, Veterans' Day, or Christmas Day falls on Sunday, the following Monday shall be a holiday. When Christmas Eve or New Year's Eve falls on Friday, the preceding Thursday shall be a holiday. When Christmas Eve or New Year's Eve falls on Saturday or Sunday, the preceding Friday shall be a holiday. [Note that this provision would be updated to reflect if any of the holidays mentioned in subsection (a) are eliminated.]

(c)-(e) [Unchanged.]

(3)-(6) [Unchanged.]

Staff Comment: In light of the federal Act making Juneteenth a federal holiday ([PL 117-17](#)), this proposed amendment would similarly require that courts observe Juneteenth as a holiday. This proposed amendment is being considered in conjunction with other proposed amendments that would eliminate an existing holiday so as to retain the same number of holidays that are currently provided under the rule. The options the Court would like commenters to consider eliminating, if the commenters believe the number of holidays should remain the same, include the day after Thanksgiving, Christmas Eve, or New Year's Eve, similar to Federal legal holiday designations. For purposes of comment, commenters are invited to indicate their support or opposition to any of the proposed amendments individually or combined.

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 February 1, 2022 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 filing a comment, please refer to ADM File No. 2021-31. Your comments and the comments of others will be posted under the chapter affected by this proposal.

VIVIANO, J. (*dissenting*). I dissent from the Court’s decision to publish for comment a proposed court rule amendment adding Juneteenth to the list of weekday holidays that must be observed by all state courts. Juneteenth commemorates a date of historical significance to all Americans: on June 19, 1865, Major General Gordon Granger of the Union Army issued a general order proclaiming, in accordance with the Emancipation Proclamation, that all slaves in Texas (the last state of the Confederacy with institutional slavery) were free. Official recognition of the Juneteenth holiday has gained traction in recent years, and it became a federal holiday on June 17, 2021. PL 117-17; 135 Stat 287. But a number of years ago, in 2005, our Legislature adopted a law declaring that “the third Saturday in June of each year shall be known as ‘Juneteenth National Freedom Day[.]’ ” MCL 435.361(1). The statute further provides that

[t]he legislature encourages individuals, educational institutions, and social, community, religious, labor, and business organizations to pause on Juneteenth National Freedom Day and reflect upon the strong survival instinct of the African-American slaves and the excitement and great joy with which African-Americans first celebrated the abolition of slavery. It is a reminder to all Americans of the status and importance of Americans of African descent as American citizens. [*Id.*]

Thus, our state has recognized and celebrated Juneteenth longer than most other jurisdictions, and well before it became fashionable to do so.

As I noted recently in another context, “[m]any of our trial courts—including some of our largest courts—are confronting a significant backlog of criminal and civil cases resulting from their inability to conduct in-person court proceedings for long stretches of time during the COVID-19 pandemic.” Administrative Order No. 2021-7, ___ Mich ___ (2021) (VIVIANO, J., concurring in part and dissenting in part). Our Court already requires state courts to observe 12 holidays that occur or are celebrated on weekdays. MCR 8.110(D)(2). And these holidays are in addition to the 30 days of annual vacation leave that are available to judges. MCR 8.110(D)(3). Rather than adding to the list of weekday holidays, which would create added stress on our trial courts’ ability to process and dispose of cases, or engage in a lengthy and contentious debate over the relative merits of Juneteenth and other holidays, I believe this Court should join with the Legislature by encouraging our judges, court staffs, litigants, attorneys, law enforcement, and others who work or have business in our state courts “to pause on Juneteenth National Freedom Day and reflect upon the strong survival instinct of the African-American slaves and the

excitement and great joy with which African-Americans first celebrated the abolition of slavery.” MCL 435.361(1). This would be an appropriate way to celebrate a date of historical significance, while also allowing our judges and courts staffs to continue to fulfill their public duties.



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.

October 20, 2021

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

Clerk