

# Order

Michigan Supreme Court  
Lansing, Michigan

November 9, 2022

Bridget M. McCormack,  
Chief Justice

ADM File No. 2022-34

Proposed Amendments of  
Rules 3.913, 3.943, 3.977,  
and 3.993 and Proposed  
Addition of Rule 3.937 of  
the Michigan Court Rules

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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 amendments of Rules 3.913, 3.943, 3.977, and 3.993 and a proposed addition of Rule 3.937 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 3.913 Referees

(A)-(B) [Unchanged.]

(C) ~~Advice of Rights to Review of Referee's Recommendations.~~

(1) During a hearing held by a referee, the referee must inform the parties of the right to file a request for review of the referee's recommended findings and conclusions as provided in MCR 3.991(B).

(2) At the conclusion of a hearing described in MCR 3.937(A), the referee must provide the juvenile with advice of appellate rights in accordance with MCR 3.937. When providing this advice, the referee must state that the appellate rights do not attach until the judge enters an order described in MCR 3.993(A).

[NEW] Rule 3.937 Advice of Appellate Rights

- (A) At the conclusion of a dispositional hearing under MCR 3.943 or any delinquency hearing at which the court orders that the juvenile be removed from a parent's care and custody, the court must advise the juvenile on the record that:
- (1) The juvenile has a right to appellate review of the order.
  - (2) If the juvenile cannot afford an attorney for appeal, the court will appoint an attorney at public expense and provide the attorney with the complete transcripts and record of all proceedings.
  - (3) A request for the appointment of an appellate attorney must be made within 21 days after notice of the order is given or an order is entered denying a timely-filed postjudgment motion.
- (B) An advisement of rights must be made in plain, age-appropriate language designed to ensure the juvenile's understanding of their rights. After advising a juvenile of their rights, the court must inquire whether the juvenile understands each of their rights.
- (C) The court must provide the juvenile with a request for appointment of appellate counsel form containing an instruction that the form must be completed and filed as required by MCR 3.993(D) if the juvenile wants the court to appoint an appellate attorney.

#### Rule 3.943 Dispositional Hearing

(A)-(E) [Unchanged.]

(F) Advice of Appellate Rights. At the conclusion of the dispositional hearing, the court must provide the juvenile with advice of appellate rights in accordance with MCR 3.937.

#### Rule 3.977 Termination of Parental Rights

(A)-(I) [Unchanged.]

(J) Respondent's Rights Following Termination.

- (1) Advice. Immediately after entry of an order terminating parental rights, the court shall advise the respondent parent orally or in writing that:

(a)-(b) [Unchanged.]

- (c) A request for the assistance of an attorney must be made within 2144 days after notice of the order is given or an order is entered denying timely filed postjudgment motion. The court must then give a form to the respondent with the instructions (to be repeated on the form) that if the respondent desires the appointment of an attorney, the form must be returned to the court within the required period (to be stated on the form).

(d)-(e) [Unchanged.]

(2) [Unchanged.]

(K) [Unchanged.]

#### Rule 3.993 Appeals

(A)-(C) [Unchanged.]

(D) Request and Appointment of Counsel.

- (1) A request for appointment of appellate counsel must be made within 2144 days after notice of the order is given or an order is entered denying a timely filed postjudgment motion.

(2)-(3) [Unchanged.]

(E) [Unchanged.]

*Staff Comment (ADM File No. 2022-34):* The proposed amendments of MCR 3.913 and 3.943 and proposed addition of MCR 3.937 would provide greater due process protections for juveniles in the justice system by ensuring that they are fully advised of their appellate rights at appropriate times and in a manner that is designed to ensure understanding of those rights. The proposed amendments of MCR 3.977 and 3.993 would extend the timeframe for requesting appointment of appellate counsel to 21 days, which mirrors the timeframe for filing a claim of appeal in cases subject to those rules.

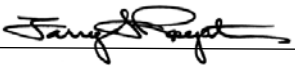
The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court

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 March 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](mailto:ADMcomment@courts.mi.gov). When submitting a comment, please refer to ADM File No. 2022-34. 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.

November 9, 2022

  
Clerk