

Order

Michigan Supreme Court
Lansing, Michigan

March 10, 2021

Bridget M. McCormack,
Chief Justice

ADM File No. 2021-09

Amendment of Rule
3.944 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 amendment of Rule 3.944 of the Michigan Court Rules is adopted, effective April 4, 2021. Concurrently, individuals are invited to comment on the form or the merits of the amendment during the usual comment period. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for public hearing are posted at [Administrative Matters & Court Rules page](#).

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

Rule 3.944 Probation Violation

- (A) [Unchanged.]
- (B) Detention Hearing; Procedure. At the detention hearing:
- (1)-(4) [Unchanged.]
- (5) The juvenile must be allowed an opportunity to deny or otherwise plead to the probation violation. If the juvenile wishes to admit the probation violation or plead no contest, the court must comply with subrule (D) before accepting the plea.
- (a)-(b) [Unchanged.]
- (c) If the juvenile is taken into custody for violating a court order under MCL 712A.2(a)(2) to (4) and is detained in a secure facility, the petitioner shall ensure that an appropriately trained, licensed, or certified mental health or substance abuse professional interviews the juvenile in person within 24 hours to assess the immediate mental health and substance abuse needs of the juvenile. The assessment may alternatively be done upon filing of the petition, prior to any order for placement in a secure facility. The completed assessment shall be

provided to the court within 48 hours of the placement and the court shall conduct a hearing to determine all of the following:

- (i) If there is reasonable cause to believe that the juvenile violated the court order.
- (ii) The appropriate placement of the juvenile pending the disposition of the alleged violation, including if the juvenile should be placed in a secure facility.

(C)-(D) [Unchanged.]

(E) Disposition of Probation Violation; Reporting.

(1) [Unchanged.]

(2) If, after hearing, the court finds that the juvenile has violated a court order under MCL 712A.2(a)(2) to (4), and the juvenile is ordered to be placed in a secure facility, the order shall include all of the following individualized findings by the court:

- (a) The court order the juvenile violated;
- (b) The factual basis for determining that there was a reasonable cause to believe that the juvenile violated the court order;
- (c) The court's finding of fact to support a determination that there is no appropriate less restrictive alternative placement available considering the best interests of the juvenile;
- (d) The length of time, not to exceed 7 days, that the juvenile may remain in the secure facility and the plan for the juvenile's release from the facility; and
- (e) The order may not be renewed or extended.

(32) [Renumbered but otherwise unchanged.]

(F) [Unchanged.]

Staff Comment: The amendment of MCR 3.944 incorporates new requirements for courts that detain juvenile status offender violators in secure facilities, in accordance with MCL 712A.15(3) and MCL 712A.18(1)(k). The effective date of these amendments is consistent with the effective date of the new statutory provisions included in 2020 PA 389.

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 amendment may be sent to the Supreme Court Clerk in writing or electronically by July 1, 2021, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2021-09. Your comments and the comments of others will be posted under the chapter affected by this proposal at [Proposed & Recently Adopted Orders on Admin Matters page](#).



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.

March 10, 2021

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

Clerk