

## **Section 2: Official Court Reporter/Recorder**

### **Table of Contents**

	<b>Page</b>	
<b>Chapter 1</b>	<b>Definition and Authority</b>	1
<b>Chapter 2</b>	<b>Appointment</b>	1
<b>Chapter 3</b>	<b>Qualifications</b>	2
<b>Chapter 4</b>	<b>Term of Office</b>	2
<b>Chapter 5</b>	<b>Oath of Office</b>	2
<b>Chapter 6</b>	<b>Management of Court Reporter/Recorder Services</b>	
	A. Transcript Production/Exhibits	3
	B. Suppressed Transcripts	4
	C. Exhibit Maintenance	4
	D. Equipment and Supplies	4
<b>Chapter 7</b>	<b>Records Maintenance</b>	
	A. Records Maintained by the Court Reporter or Recorder	5
	B. Transfer of Records to Clerk of Court	5
	C. Court to Retain Control Over Records of Reporter or Recorder	5
	D. Handling Nonpublic Records	5
<b>Chapter 8</b>	<b>Audio Recording Procedures</b>	
	A. Duties and Responsibilities of Court Operator	6
	B. Duties and Responsibilities of Judge	7
	C. Daily Starting Procedures	7



## Section 2: Official Court Reporter/Recorder

### Chapter 1: Definition and Authority

An official court reporter/recorder is a reporter/recorder who is employed by a Michigan trial or appellate court. This includes any certified reporter/recorder who is employed by a court whether full-time or per diem (by the day). The authority, appointment, qualification, term of office, and oath of office for an official court reporter/recorder are prescribed by statute and court rule.

#### A. Circuit Court

Each circuit court in this state shall have as many court reporters or certified court recorders as it has judges. ([MCL 600.1101](#))

#### B. Probate Court

The probate judge or chief probate judge of any county or probate court district may appoint, and in counties having a population of 50,000 or more shall appoint, 1 or more official court reporters or certified recorders of the probate court. ([MCL 600.835\[1\]](#))

#### C. District Court

There shall be not less than one district court certified court recorder or court reporter for each judge of the district court. ([MCL 600.8601](#))

Under Supreme Court rule, the chief or only judge of the district may appoint additional certified recorders and reporters. ([MCL 600.8602\[2\]](#))

### Chapter 2: Appointment

#### A. Generally

Chief judges, collectively, are the employers of all the official reporters and recorders in this state. The authority and responsibility to "supervise the performance of all court personnel, with authority to hire, discipline, or discharge such personnel, with the exception of a judge's secretary and law clerk, if any" is vested in the chief judge (or single judge) by the provisions of [MCR 8.110\(C\)\(3\)\(d\)](#).

#### B. Circuit Court

According to statute, every reporter or recorder in the circuit court shall be appointed by the governor after having first been recommended by the judge or judges of the court to which s/he is appointed and s/he is an officer of that court. ([MCL 600.1104](#)) However, a governor has not appointed a court reporter or recorder since 1990.

Instead, the court appoints court reporters and recorders in accordance with MCR [8.110\(C\)\(3\)\(d\)](#).

### **C. Probate Court**

The probate judge or chief probate judge of any county or probate court district appoints official court reporters and certified court recorders of the probate court. ([MCL 600.835\[1\]](#))

### **D. District Court**

Each judge of the district court shall appoint his or her own reporter or recorder. ([MCL 600.8602\[1\]](#))

The Court of Appeals has held that a district court judge has the right and the responsibility of selecting a court recorder at the beginning of the judge's tenure in office under MCL 600.8601 *et seq.* The court expressly declined to consider the subsequent removal of the court recorder by the judge who appointed him or her. (*Irons v 61st District Court Employees*, 139 Mich App 313 [1984])

## **Chapter 3: Qualifications**

Only reporters or recorders certified pursuant to MCR 8.108 may record or prepare transcripts at proceedings held in Michigan courts or of depositions taken in Michigan. ([MCR 8.108\[G\]](#)) If a reporter or recorder will be swearing in witnesses at a deposition, he or she must be authorized to administer oaths. ([MCR 2.304](#))

## **Chapter 4: Term of Office**

### **A. Circuit Court**

Every reporter or recorder shall hold office at the pleasure of the governor unless suspended for incompetency or misconduct, by the court to which s/he is appointed. In the case of a suspension, the reporter or recorder shall cease to hold the office of reporter or recorder unless by order of the court his or her suspension is rescinded. If the suspension is not rescinded within 30 days of the order of suspension, the office shall become vacant. ([MCL 600.1105](#))

## **Chapter 5: Oath of Office**

### **A. Circuit Court**

Before entering upon the duties of his or her office, the court reporter or recorder shall take and subscribe the constitutional oath of office, which shall be filed in the office of the secretary of state. ([MCL 600.1104](#))

## **B. Probate Court**

Upon appointment, probate court reporters and recorders shall take and subscribe the constitutional oath of office, which shall be filed with the court clerk. (MCL 600.835[1])

## **Chapter 6: Management of Court Reporter and Recorder Services**

The chief or only judge of the court is charged with overall administrative responsibility for the employees of the court. This responsibility extends to effective management of the court's shorthand reporters or certified electronic recorders. The court should consider adopting written policies covering the following areas:

### **A. Transcript Production/Exhibits**

#### **1. Responsibility for Supervision of Court Reporters and Recorders**

It is primarily the responsibility of every trial judge to make certain that the court reporter or recorder timely prepares and files transcripts and maintains exhibits. Ultimately, it is the responsibility of the chief judge pursuant to MCR 8.110 to make certain that trial judges and court reporters or recorders comply with the requirements for preparing and filing transcripts and maintaining and filing exhibits.

#### **2. Responsibility of Court Reporter and Recorder**

The court reporter's or recorder's responsibility for preparing and furnishing the transcript is set forth in [MCR 8.108](#).

#### **3. Priority of Transcript Production/Exhibits**

Transcripts should be prepared in order of being ordered. Transcripts should be filed within the time limits prescribed by the Michigan Court Rules. ([MCR 7.101\[F\]](#) and [MCR 7.210\[B\]](#)) In the rare case in which the time limit cannot be met, the reporter or recorder shall file a motion for an extension of time in the appellate court. A copy of any motion for extension of time shall be provided to the chief judge and the court administrator. See SCAO approved form, [MC 503](#).

#### **4. Show Causes**

If a reporter or recorder is ordered by an appellate court to show cause why s/he should not be held in contempt of court for failing to file transcripts on a timely basis, the reporter or recorder shall immediately provide the chief judge and court administrator with a copy of the order.

As a matter of policy, a warning letter will be sent to any court reporter or recorder who has three show-cause orders issued by the Court of Appeals within one calendar year. The letter shall include notification that the Board is instituting time management monitoring of that reporter or recorder and requires the reporter or recorder to provide a

written explanation. Failure to bring all matters current and to respond to this warning may result in a formal hearing to impose sanctions up to and including revocation of certification.

## **5. Pending Transcript Report**

Reporters and recorders should be required to file a monthly pending transcript report with the chief judge or court administrator. This report should contain at least the following information:

- a. name of case,
- b. file number,
- c. date ordered,
- d. date reporter's certificate was filed,
- e. due date,
- f. estimated length of transcript,
- g. "type" of case,
- h. estimated completion date, and
- i. show cause date (if applicable).

## **B. Suppressed Transcripts**

“There appears to be no statute, court rule, or case law for suppressing transcripts. Procedures for sealing records is prescribed by MCR 8.119(F). See also Section 8-03, page 8-03-03.” (quote from [Michigan Court Administration Reference Guide, Section 4-24, page 4-24-04](#))

## **C. Exhibit Maintenance**

Exhibit maintenance is governed by [MCR 2.518](#) and the [Michigan Trial Court Case File Management Standards, Component 20, pages 32 and 33](#). As a general rule, exhibits are maintained by the court reporter during the trial. At the conclusion of the trial, the judge will either require the exhibits to be retained by the court reporter or recorder until the conclusion of the time period for taking an appeal of right or returned to attorneys who offered the exhibits into evidence. If an appeal is taken, the court reporter or recorder should either file the exhibits with the clerk of the court so that the clerk can comply with [MCR 7.210\(C\)](#) or file the exhibits with the appellate court.

## **D. Equipment and Supplies**

The court may supply certain basic supplies and equipment to each reporter or recorder. Examples include: transcript paper, stenograph paper, transcript covers, ink, ribbons, exhibit stickers, miscellaneous office supplies, typewriter, dictating machine, and cassettes.

## Chapter 7: Records Maintenance

### A. Records Maintained by the Court Reporter or Recorder

The court reporter or recorder who takes the testimony on the trial or the hearing of any case shall prefix the record of the testimony of each witness with the full name of the witness and the date and time the testimony was taken. At the conclusion of the trial of the case the reporter or recorder shall secure all of the records and properly entitle them on the outside, and shall safely keep them in his or her office. ([MCR 8.108\[C\]](#)) Because these records belong to the court, the court reporter or recorder shall maintain both the notes and the recorded media as required by the [Michigan Trial Court Case File Management Standards, Component 24, pages 40 through 42](#) and as directed by the court.

### B. Transfer of Records to Clerk of Court

If a court reporter or recorder dies, resigns, is removed from office, or leaves the state, his or her records in each case must be transferred to the clerk of the court in which the case was tried. The clerk shall safely keep the records subject to the direction of the court. The records are a part of the record of each case and are subject to inspection in the same manner as other records. On order of the court, a transcript may be made from the records and filed as a part of the record in the case. ([MCR 8.108\[D\]](#) and [Michigan Trial Court Case File Management Standards, Component 23, pages 38 and 39](#))

The clerk of the court shall safely keep the records subject to the direction of the court. The records are part of the record of each case and are subject to inspection in the same manner as other records. ([MCR 8.108\[D\]](#) and [Michigan Trial Court Case File Management Standards, Component 23, page 38](#))

### C. Court to Retain Control Over Records of Reporters or Recorders

The clerk of the court shall safely keep the records subject to the direction of the court. The records are part of the record of each case and are subject to inspection in the same manner as other records. ([MCR 8.108\[D\]](#) and [Michigan Trial Court Case File Management Standards, Component 23, page 38](#))

The court shall retain control over the records relating to any proceedings held in that court including those of court reporters and recorders who are not employed by the court. ([Michigan Trial Court Case File Management Standards, Component 23, page 38](#))

### D. Handling Nonpublic Records

When a case becomes nonpublic, all materials related to that case must also be treated as nonpublic, including court reporter or recorder notes, recordings, transcripts, and any other material which may be kept in a separate location from the case file. Before making materials available to the public, court staff should check the court's file to determine its status relating to public access.

Although there is no specific statutory or rule-based direction for one court to make confidential a record or information which has been made confidential in another court, ordering such confidentiality in the other court would, in many cases, appear to be appropriate. An example is a district court case bound over to circuit court where the file becomes nonpublic. Notification of the circuit court nonpublic record status would facilitate restriction of access to the record in the district court.

For details about the types of records and documents that are nonpublic, confidential, or have limited access, see the chart of *Nonpublic and Limited Access Court Records* at [http://courts.michigan.gov/scao/resources/standards/cf\\_chart.pdf](http://courts.michigan.gov/scao/resources/standards/cf_chart.pdf).

See also the [Michigan Trial Court Case File Management Standards](#) and [Michigan Court Administration Reference Guide, Section 8-04, Maintaining Files/Records](#), for more details.

## **Chapter 8: Audio Recording Procedures**

These procedures are recommended to assist in achieving maximum quality in recording. While the procedures are not mandatory, both electronic operators (CEOs) and court recorders (CERs) are encouraged to adopt them in the course of their profession. For purposes of this Chapter, the term “operator” includes both CEOs and CERs.

### **A. Duties and Responsibilities of Court Operator**

#### **1. General**

The operator is responsible for producing a record of all proceedings in the court to which they have been assigned. The operator must produce the clearest possible recording of proceedings and must keep a written (handwritten, typed, or computer-generated) log of events in the proceeding. Satisfactory performance of the system depends almost entirely on the operator's understanding of the procedures outlined and his/her conscientious application of these procedures to his/her work in the court.

#### **2. Specific**

- a. Top priority must be given to recording court proceedings. The operator must be in the courtroom early enough to prepare for the recording.
- b. The operator is responsible for interruptions or gaps in the tape unless the judge's order to stop the machine can be heard on the tape.
- c. The record consists of properly labeled tapes or compact disks (CDs) along with log notes and other accompanying information that the transcriber needs to produce a complete and accurate typed transcript of the proceedings. The operator must listen through headphones to the recording he or she is producing and must maintain a log of the proceedings. To assure the quality of the audio recording and the completeness of the log materials, the operator may need to ask people to speak into a microphone, to speak louder, or to spell their names or the

names of people or places they are talking about. It is mandatory that the operator have the headphones on at all times and **that the operator listen to the recording, not the source**. This ensures that the media is being recorded on.

## **B. Duties and Responsibilities of Judge**

The judge must ensure that an adequate record of proceedings has been made by:

1. maintaining court decorum to permit an accurate record to be recorded,
2. making participants aware that the court proceeding is being electronically recorded,
3. speaking loudly and clearly and reminding participants to do the same,
4. calling the case by name and number and type of proceeding,
5. reminding all participants to properly identify themselves when making their initial appearance during a proceeding,
6. announcing on tape if a side bar conference is to be recorded,
7. reminding counsel, when necessary, to remain within an appropriate distance of microphones, and
8. reminding participants not to make excessive noises that interfere with the recording such as rustling papers, tapping fingers on microphones, etc.

## **C. Daily Starting Procedures**

Planning and preparing for each day is a mandatory function. The operator should have readily available all necessary supplies for producing an accurate and clear recording and for creating log notes. To ensure a quality recording will be made, the operator must allow enough time before the proceedings begin to pretest the recording equipment and all microphones.

### **1. Supplies**

The supplies needed on a daily basis include:

- a. headset;
- b. court calendar;
- c. cassette tapes for analog recording or compact disks for digital recording and any other media to be used for archiving;
- d. log sheets and a clock;

- e. pens, pencils, highlighters, legal pads; and
- f. witness and exhibit lists and stickers.

## 2. Pretesting Procedures

### **The operator must test the recording system every day before proceedings begin.**

- a. Make sure the recording equipment is plugged in and that all microphones are plugged into the equipment; make certain that microphones are plugged into the proper channels.
- b. For an analog system, fill out label information on the tape.
- c. Reset the index counter if a new tape is installed, or note the index counter on the log sheet if the tape has been partially used during the previous court session.
- d. For a digital system, label the disc according to your court's policies. Open the log note program. The time will be automatically set for you.
- e. No matter what recording system is being used, make a test recording by turning on the recording equipment in the record mode. Walk around to each microphone and state: "testing microphone #1," "microphone #2," etc. and lightly scrape the microphone screen with a pen cap or fingernail.
- f. For an analog system, go back to the recording equipment and rewind to the meter number at which you began the test recording (which would be on the log sheet) and listen to the test recording.
- g. For a digital system, go into the playback panel and listen to the test recording.
- h. For any recording system, make the notation in your log notes that the system and the microphones were checked to ensure proper working condition, and indicate whether or not any problems were found.

## 3. Handling Problems with Recording Equipment

If there are problems with the recording equipment, repeat the above steps. If they persist, try the following:

- a. repeat the above steps;
- b. check the tape to make sure nothing is on it or put a fresh tape in the recorder;
- c. check connections for the microphone and headset;
- d. check volume control and make sure monitor is on (for an analog system, the monitor should be on "ALL"); and

- e. for a digital system, close down the recording program and restart the program.

If the problem persists, contact the service representative and use the backup recorder.