

MICHIGAN SUPREME COURT



Office of Public Information

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FOR IMMEDIATE RELEASE

PROPOSED CHANGES TO COURT RULES GOVERNING HEADLEE AMENDMENT CASES ON THE AGENDA FOR SUPREME COURT'S MAY 11 PUBLIC HEARING

LANSING, MI, May 5, 2011 – Rules for litigating Headlee Amendment cases would change under proposals that the [Michigan Supreme Court](#) has on the agenda for a May 11 public hearing.

The Legislative Commission on Statutory Mandates recommended the changes in a December 2009 report. If adopted, the proposal ([ADM File No. 2010-05](#)) would eliminate fact-specific pleading requirements and would establish priority treatment for Headlee actions in the Court of Appeals. The proposed changes would also codify the current practice of appointing a special master to hear the case. The changes would make it easier for would-be Headlee litigants to pursue their claims, the commission maintains. But Attorney General Bill Schuette and the Michigan Court of Appeals have expressed concerns, saying that a Headlee plaintiff should be required to plead specific facts – for example, how a government action violated Headlee – so that the parties and court understand the basis for the Headlee claim.

Adopted by voters in 1978, the Headlee Amendment (Const 1963, art 9, §§ 24-34) sets an overall limit on total state spending for each fiscal year. The amendment requires the state to reimburse local governments for any new state-mandated programs; it also prohibits the state from reducing the proportion of total state spending on local governments below the proportion in effect in FY 1979. Among other provisions, Headlee requires that voters approve local government tax increases that were not authorized by law or charter before November 1978.

The proposals for all public hearing items and their related comments are available online at <http://www.courts.michigan.gov/supremecourt/Resources/Administrative/index.htm#proposed>.

The public hearing, which begins at 9:30 a.m., will take place in the Supreme Court courtroom on the sixth floor of the Michigan Hall of Justice in Lansing. Anyone wishing to address the Court on agenda items should contact the Clerk of the Court in writing at P.O. Box 30052, Lansing, MI 48909 or by e-mail at MSC_clerk@courts.mi.gov, no later than May 9, 2011 to reserve a place on the agenda. Speakers will have three minutes each to present their views and may be questioned by the justices.

Also on the Supreme Court's agenda:

- [ADM File No. 2008-18](#), proposed amendment of MCR 3.501. *Whether to adopt one of two alternative amendments of MCR 3.501(B). Alternative A would provide*

that a change in circumstances must have occurred to allow a party to file a supplemental motion for certification of a class, and the motion must be filed within 21 days of the party's knowledge of the changed circumstances. The proposed change would also allow a party to file a motion to revoke or amend the class certification. The proposed revision would also allow the court to consider supplemental motions to recertify and revoke or amend the certification. Alternative B would clarify that a party may bring only one motion to certify a class action and that, after granting the motion to certify, the court may amend or revoke the certification.

- [ADM File No. 2008-28](#), proposed amendment of MCR 6.005. *Whether to adopt revisions that would require appointed trial counsel in criminal cases to respond to any preconviction appeals by the prosecutor, either by filing a substantive brief or by notifying the Court of Appeals that the lawyer will not be filing a brief.*
- [ADM File No. 2009-20](#), proposed amendment of Rule 3 of the Rules Concerning the State Bar of Michigan and Rule 8 of the Rules for the Board of Law Examiners. *Whether to adopt a State Bar of Michigan proposal to amend SBR 3 to clarify that an out-of-state attorney who seeks readmission to the Michigan bar after resigning voluntarily would not be required to take the Michigan bar examination, if the attorney meets the requirements of Rule 5 of the Rules for the Board of Law Examiners. A similar rule change would apply to attorneys who seek readmission after voluntarily taking emeritus status. Rule 8 of the Rules for the Board of Law Examiners would be amended to reflect that resigned or emeritus attorneys can seek recertification.*
- [ADM File No. 2009-29](#), proposed amendment of MCR 5.208. *Whether to eliminate the requirement to include a deceased person's last known address on the "Notice to Creditors" form. MCR 5.208 requires the personal representative of a deceased person's estate to send this form to newspapers, so that potential creditors have an opportunity to make claims against the estate. The revision has been proposed out of concern that providing the address might expose a surviving spouse to unnecessary risks.*

The Court will also discuss whether to adopt one of two alternative proposals regarding an attorney's ethical obligation to provide pro bono services ([ADM File No. 2010-18](#); proposed amendments to Rule 6.1 of the Michigan Rules of Professional Conduct). Alternative A would clarify that attorneys are not subject to disciplinary proceedings to compel them to provide pro bono services. Alternative B would require Michigan attorneys to donate 30 hours of professional time or handle three pro bono cases per year, and/or contribute \$300 or \$500 per year to programs that provide legal services to the poor.

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