

MICHIGAN SUPREME COURT



Office of Public Information

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FOR IMMEDIATE RELEASE

JUDGES COULD BE BARRED FROM PARTICIPATING IN PLEA DEAL DISCUSSIONS UNDER PROPOSAL ON MICHIGAN SUPREME COURT'S PUBLIC ADMINISTRATIVE CONFERENCE AGENDA

Agenda for April 9 meeting includes chief judge appointments, potential changes to juvenile guardianship rules, judicial selection reform proposal

LANSING, MI, April 8, 2009 – Judges would be precluded from being involved in plea agreements in criminal cases, under proposed rule changes on the agenda for the [Michigan Supreme Court's](#) public administrative conference on April 9, 2009.

The proposal ([ADM 2006-16](#)) would amend Michigan Court Rule 6.302 to provide in part that “The court shall not participate in discussions between the prosecutor and the defendant’s lawyer or the defendant, if the defendant is proceeding pro se, concerning a plea agreement.”

A related change to MCR 6.310 provides that the defendant may withdraw the plea if the sentencing judge states that he or she cannot impose the “specific sentence disposition or sentencing range” that the prosecutor and defendant agreed to as part of the plea arrangement. The judge would state the sentence he or she intends to impose before giving the defendant the opportunity to affirm or withdraw the plea.

According to a staff comment, the proposed changes “would make the [Michigan] rules consistent with the federal rules, which preclude judicial involvement in negotiating plea agreements and limit the ability of defendants to withdraw guilty pleas.” The proposal was on the agenda for a [September 24, 2008 public hearing](#) before the Supreme Court, and was first published for [public comment](#) on March 18, 2008.

The Court will also discuss whether to adopt amendments to various court rules governing child protection proceedings, including efforts to advance permanent placements for children who are court wards ([ADM 2008-29](#)). The proposed rule amendments are aimed at making the court rules consistent with recent legislative enactments, 2008 PA 199-203.

The Court will also discuss other potential court rule changes, as well as chief judge appointments for some trial courts, and appointments to the [Court Reporting and Recording Board of Review](#). The final item on the agenda is a proposal by Justice Elizabeth A. Weaver regarding selection of Michigan Supreme Court justices.

The conference, which will begin at 9:30 a.m., will take place in the Supreme Court courtroom on the 6th floor of the [Michigan Hall of Justice](#).

The [agenda](#) for this and future conferences may be viewed online at <http://www.courts.michigan.gov/supremecourt/Resources/Administrative/AdminConf.htm>.

Agenda items: April 9, 2009 public administrative conference

Chief Justice Update

Discussion of Rules 1, 3, and 5 of the draft rules for Open Administrative Conferences

Approval of the Minutes

Appointments

1. 2009-01 **Subject:** Chief Judge Appointments in the new district courts of 87A Otsego County, 87B Kalkaska County, and 87C Crawford County.
Issue: *Whether to appoint Judges Patricia A. Morse (87A District Court—Otsego County), Lynne M. Buday (87B District Court—Kalkaska County), and Monte J. Burmeister (87C District Court—Crawford County) as chief judges*
Note: New chief judge appointments are necessary because of a legislative change in the 87th District Court that breaks the former single three-county district into three separate districts.

2. 2009-01 **Subject:** Chief Judge Appointments in Houghton County Probate Court and Alger/Schoolcraft Probate District Court.
Issue: *Whether to appoint Fraser T. Strome and Charles C. Nebel as chief judges of P31 (Houghton County Probate) and PD5 (Alger/Schoolcraft Probate District) courts respectively.*

3. 2009-01 **Subject:** Appointments to the Court Reporting and Recording Board of Review.
Issue: *Whether to reappoint the Honorable William E. Collette, Kathleen Schmalz, and Sue Heierman to the Court Reporting and Recording Board of Review.*

Items Previously Discussed

4. 2005-32 **Subject:** Proposed Pilot Project of the 46th District Court to Operate Under Revised Provisions of Rules 2.112, 2.114, 3.101, and 8.119 of the Michigan Court Rules. The 46th District Court has amended its

request to seek various rule amendments instead of approval of a pilot project.

Issue: *Whether to publish for comment proposed amendments of MCR 2.112, 2.114, 3.101, and 8.119 that would require specific pleading in debt collection cases and expand a court clerk's ability to reject pleadings.*

5. 2006-16 **Subject:** Proposed Adoption of the Amendment of Rules 6.302 and 6.310 of the Michigan Court Rules.
Issue: *Whether to adopt the proposal published for comment that would eliminate Cobbs hearings and prohibit a judge from participating in plea discussions.*
6. 2006-38 **Subject:** Proposed Amendment of Subchapter 9.100 *et seq.* of the Michigan Court Rules.
Issue: *Discussion of the second portion of the proposed amendments recommended by the AGC/ADB.*
7. 2008-29 **Subject:** Proposed Adoption of the Amendment of Rules 3.901, 3.903, 3.921, 3.965, 3.975, 3.976, 3.977, and 3.978 of the Michigan Court Rules, and Adoption of New Rule 3.979 of the Michigan Court Rules.
Issue: *Whether to adopt amendments published for comment to implement juvenile guardianships.*
8. 2009-06 **Subject:** Proposed Amendment of the Michigan Rules of Professional Conduct: MRPC 1.5—Fees.
Issue: *Whether to publish for comment the proposed amendments of MRPC 1.5.*

New Items

9. 2008-13 **Subject:** Proposed Adoption of New Rule 1.15A of the Michigan Rules of Professional Conduct.
Issue: *Whether to publish for comment a new MRPC 1.15A to implement a trust account overdraft notification program in Michigan as recommended by the State Bar of Michigan.*
10. 2009-07 **Subject:** Proposed Prison Mailbox Rule.
Issue: *Whether to authorize a pilot project to allow an application for leave to appeal in a criminal case to be deemed filed on the date of deposit of the application in the Expedited Legal Mail at the correctional institution in which the inmate is housed (when the appeal is received by the clerk more than 56 days after the Court of Appeals decision and the appellant filing the application is an inmate in the custody of the Michigan Department of Corrections).*

11. 2009-09 **Subject:** Proposed Administrative Order to Require Appointment of Referees and Magistrates by Local Administrative Order. **Issue:** *Whether to publish for comment a proposed administrative order to require courts to submit a local administrative order to identify individuals who are appointed referees and magistrates and to describe the scope of authority of the appointed referees and magistrates. The proposed order also would require that changes of an appointed individual's contact information be provided to the State Court Administrative Office.*

Other Items

12. Proposed Reform of Michigan's Dual System of Election and Appointment of Supreme Court Justices (distributed by Justice Elizabeth Weaver to the justices at the March 5, 2009 public administrative conference).

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