

# Order

Michigan Supreme Court  
Lansing, Michigan

December 21, 2011

Robert P. Young, Jr.,  
Chief Justice

ADM File No. 2006-04

Michael F. Cavanagh  
Marilyn Kelly  
Stephen J. Markman  
Diane M. Hathaway  
Mary Beth Kelly  
Brian K. Zahra,  
Justices

Proposed Amendment of Rule 3.204  
of the Michigan Court Rules

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On order of the Court, this is to advise that the Court is considering an amendment of Rule 3.204 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 also will be considered at a public hearing. The notices and agendas for public hearings are posted at [www.courts.michigan.gov/supremecourt/Resources/Administrative/index.htm](http://www.courts.michigan.gov/supremecourt/Resources/Administrative/index.htm).

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 are indicated by underlining and deletions are indicated by strikeover.]

## Rule 3.204 Proceedings Affecting Children

- (A) Unless the court orders otherwise for good cause, if a circuit court action involving child support, custody, or parenting time is pending, or if the circuit court has continuing jurisdiction over such matters because of a prior action:
- (1) A new action concerning support, custody or parenting time of the same child must be filed as a motion ~~or supplemental complaint~~ in the earlier action. ~~The new action shall be filed as a motion~~ if the relief sought would have been available in the original cause of action. If the relief sought was not available in the original action, the new action must be filed as a ~~supplemental~~ new complaint.
  - (2) A new action for the support, custody, or parenting time of a different child of the same parents must be filed ~~as a supplemental complaint in the earlier~~

~~action if the court has jurisdiction and the new action is not an action for divorce, annulment, or separate maintenance.~~

- ~~(3) A new action for divorce, annulment, or separate maintenance that also involves the support, custody, or parenting time of that child must be filed in the same county as the prior action if the circuit court for that county has jurisdiction over the new action and the new case must be assigned to the same judge to whom the previous action was assigned.~~
  - (3) Whenever possible, all actions involving children of the same parents shall be administered together. When the court enters a final order in a new action involving a new child of those parents, the order shall include comprehensive provisions for custody, parenting time, and support for both that child and any children named in previous actions involving the same parents. The order must refer to the other cases and state that it supersedes the custody, parenting time, and support provisions of the orders entered previously in those cases. In the new action, the court may modify substantive provisions in preexisting orders involving another child or children of the same parents, provided that the modification is supported by evidence presented in the new case and both parents have had an opportunity to be heard concerning the proposed modifications.
  - ~~(4) A party may file a supplemental pleading required by this subrule without first seeking and obtaining permission from the court. The supplemental pleading must be served as provided in MCR 3.203(A)(2), and an answer must be filed within the time allowed by MCR 2.108. When this rule requires a supplemental pleading, all filing and judgment entry fees must be paid as if the action was filed separately.~~
- (B) When more than one circuit court action involving support, custody, or parenting time of a child is pending, or more than one circuit court has continuing jurisdiction over those matters because of prior actions, ~~an original or supplemental~~ a complaint for the support, custody, or parenting time of a different child of the same parents must be filed in whichever circuit court has jurisdiction to decide the new action. If more than one of the previously involved circuit courts would have jurisdiction to decide the new action, or if the action might be filed in more than one county within a circuit:
- (1) The new action must be filed in the same county as a prior action involving the parents' separate maintenance, divorce, or annulment.
  - (2) If no prior action involves separate maintenance, divorce, or annulment, the new action must be filed:

- (a) in the county of the circuit court that has issued a judgment affecting the majority of the parents' children in common, or
  - (b) if no circuit court for a county has issued a judgment affecting a majority of the parents' children in common, then in the county of the circuit court that has issued the most recent judgment affecting a child of the same parents.
- (C) ~~The court may consolidate actions~~ enter an order that consolidates the custody, parenting time, and support provisions of multiple orders administratively without holding a consolidation hearing when:
- (1) the cases involve different children of the same parents but all other parties are the same, or
  - (2) more than one action involves the same child and parents.
- The order must refer to the other cases and state that it supersedes the custody, parenting time, and support provisions of the orders in those cases.
- ~~(D) If a new action for support is filed in a circuit court in which a party has an existing or pending support obligation, the new case must be assigned to the same judge to whom the other case is assigned, pursuant to MCR 8.111(D).~~
- ~~(E)~~(D)In a case involving a dispute regarding the custody of a minor child, the court may, on motion of a party or on its own initiative, for good cause shown, appoint a guardian ad litem to represent the child and assess the costs and reasonable fees against the parties involved in full or in part.

Staff Comment: The proposed amendment would remove the requirement to file a new action as a supplemental complaint, which would allow trial courts to consolidate cases in a way that is more compatible with trial court case management systems.

The staff comment is not an authoritative construction by the 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 sent to the Supreme Court Clerk

in writing or electronically by April 1, 2012, at P.O. Box 30052, Lansing, MI 48909, or [MSC\\_clerk@courts.mi.gov](mailto:MSC_clerk@courts.mi.gov). When filing a comment, please refer to ADM File No. 2006-04. Your comments and the comments of others will be posted at

[www.courts.michigan.gov/supremecourt/Resources/Administrative/index.htm](http://www.courts.michigan.gov/supremecourt/Resources/Administrative/index.htm).



I, Corbin R. Davis, 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.

December 21, 2011

*Corbin R. Davis*

Clerk