

# Order

Michigan Supreme Court  
Lansing, Michigan

September 9, 2009

Marilyn Kelly,  
Chief Justice

ADM File No. 2008-21

Michael F. Cavanagh  
Elizabeth A. Weaver  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman  
Diane M. Hathaway,  
Justices

Proposed Amendment of  
Rule 3.932 of the Michigan  
Court Rules

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On order of the Court, this is to advise that the Court is considering alternative amendments of Rule 3.932 of the Michigan Court Rules. Before determining whether the either of these proposals 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 proposals or to suggest alternatives. The Court welcomes the views of all. This matter will be considered at a public hearing. The notices and agendas for public hearings are posted on the Court's website, [www.courts.michigan.gov/supremecourt](http://www.courts.michigan.gov/supremecourt).

[Additions are indicated by underline, and deletions by strikethrough.]

Alternative A – Elimination of the Consent Calendar Provisions

Rule 3.932 Summary Initial Proceedings

(A)-(B)[Unchanged.]

~~(C) Consent Calendar. If the court receives a petition, citation, or appearance ticket, and it appears that protective and supportive action by the court will serve the best interests of the juvenile and the public, the court may proceed on the consent calendar without authorizing a petition to be filed. No case may be placed on the consent calendar unless the juvenile and the parent, guardian, or legal custodian agree to have the case placed on the consent calendar. The court may transfer a case from the formal calendar to the consent calendar at any time before disposition.~~

~~(1) Notice. Formal notice is not required for cases placed on the consent calendar except as required by article 2 of the Crime Victim's Rights Act, MCL 780.781 et seq.~~

~~(2) Plea; Adjudication. No formal plea may be entered in a consent calendar case, and the court must not enter an adjudication.~~

- (3) ~~Conference. The court shall conduct a consent calendar conference with the juvenile and the parent, guardian, or legal custodian to discuss the allegations. The victim may, but need not, be present.~~
- (4) ~~Case Plan. If it appears to the court that the juvenile has engaged in conduct that would subject the juvenile to the jurisdiction of the court, the court may issue a written consent calendar case plan.~~
- (5) ~~Custody. A consent calendar case plan must not contain a provision removing the juvenile from the custody of the parent, guardian, or legal custodian.~~
- (6) ~~Disposition. No order of disposition may be entered by the court in a case placed on the consent calendar.~~
- (7) ~~Closure. Upon successful completion by the juvenile of the consent calendar case plan, the court shall close the case and may destroy all records of the proceeding. No report or abstract may be made to any other agency nor may the court require the juvenile to be fingerprinted for a case completed and closed on the consent calendar.~~
- (8) ~~Transfer to Formal Calendar. If it appears to the court at any time that the proceeding on the consent calendar is not in the best interest of either the juvenile or the public, the court may, without hearing, transfer the case from the consent calendar to the formal calendar on the charges contained in the original petition, citation, or appearance ticket. Statements made by the juvenile during the proceeding on the consent calendar may not be used against the juvenile at a trial on the formal calendar on the same charge.~~

~~(D)~~(C) Formal Calendar. The court may authorize a petition to be filed and docketed on the formal calendar if it appears to the court that formal court action is in the best interests of the juvenile and the public. The court shall not authorize an original petition under MCL 712A.2(a)(1), unless the prosecuting attorney has approved submitting the petition to the court. At any time before disposition, the court may transfer the matter to the consent calendar.

Alternative B – Addition of Prosecutor’s Approval and  
No Consent Calendar for Offenses Prohibited from Diversion  
in the Juvenile Diversion Act

Rule 3.932 Summary Initial Proceedings

(A)-(B)[Unchanged.]

- (C) Consent Calendar. If the court receives a petition, citation, or appearance ticket, and it appears that protective and supportive action by the court will serve the best interests of the juvenile and the public, the court may proceed on the consent calendar without authorizing a petition to be filed. No case may be placed on the consent calendar unless the juvenile and the parent, guardian, or legal custodian, and the prosecutor, agree to have the case placed on the consent calendar. The court may not place an “assaultive crime,” as defined in MCL 722.822(a) of the Juvenile Diversion Act, on the consent calendar. The court may transfer a case from the formal calendar to the consent calendar at any time before disposition.

(1)-(8) [Unchanged.]

- (D) [Unchanged.]

Staff Comment: Alternative A would eliminate the consent calendar provisions of MCR 3.932. Alternative B would require a prosecutor’s consent to the use of the consent calendar and would prohibit the court from placing a case for an assaultive crime as defined in the Juvenile Diversion Act on the consent calendar.

The staff comment is not an authoritative construction by the Court.

A copy of this order will be given to the Secretary of State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on these proposals may be sent to the Supreme Court Clerk in writing or electronically by January 1, 2010, 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. 2008-21. Your comments and the comments of others will be posted on the Court’s website at [www.courts.mi.gov/supremecourt/resources/administrative/index.htm](http://www.courts.mi.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.

September 9, 2009

*Corbin R. Davis*

Clerk