

Order

Michigan Supreme Court
Lansing, Michigan

October 6, 2011

Robert P. Young, Jr.,
Chief Justice

ADM File No. 2011-04

Michael F. Cavanagh
Marilyn Kelly

Amendment of Rule 3.915
of the Michigan Court Rules

Stephen J. Markman
Diane M. Hathaway
Mary Beth Kelly
Brian K. Zahra,
Justices

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendment of Rule 3.915 of the Michigan Court Rules is adopted, effective January 1, 2012.

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

Rule 3.915 Assistance of Attorney

(A) [Unchanged.]

(B) Child Protective Proceedings.

(1) Respondent.

(a) Advice and Right to Counsel. At respondent's first court appearance, the court shall advise the respondent of the right to retain an attorney to represent the respondent at any hearing conducted pursuant to these rules and that

(i) the respondent has the right to a court appointed attorney at any hearing conducted pursuant to these rules, including the preliminary hearing, if the respondent is financially unable to retain an attorney, and,

(ii) if the respondent is not represented by an attorney, the respondent may request a court-appointed attorney at any later hearing.

- (b) Appointment of an Attorney. The court shall appoint an attorney to represent the respondent at any hearing, including the preliminary hearing, conducted pursuant to these rules if
- (i) the respondent requests appointment of an attorney, and
 - (ii) it appears to the court, following an examination of the record, through written financial statements, or otherwise, that the respondent is financially unable to retain an attorney.
- (c) The respondent may waive the right to the assistance of an attorney, except that the court shall not accept the waiver by a respondent who is a minor when a parent, guardian, legal custodian, or guardian ad litem objects to the waiver.

(2) [Unchanged.]

(C)-(E) [Unchanged.]

Staff Comment: The amendment of MCR 3.915 clarifies that counsel should be appointed for a parent even at the preliminary hearing of a child protective proceeding.

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



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.

October 6, 2011

Corbin R. Davis
Clerk