

Order

Michigan Supreme Court
Lansing, Michigan

May 22, 2024

Elizabeth T. Clement,
Chief Justice

ADM File No. 2023-34

Amendment of Rule
3.967 of the Michigan
Court Rules

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Megan K. Cavanagh
Elizabeth M. Welch
Kyra H. Bolden,
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 3.967 of the Michigan Court Rules is adopted, effective September 1, 2024.

[Additions to the text are indicated in underlining and
deleted text is shown by strikeover.]

Rule 3.967 Removal Hearing for Indian Child

(A)-(C) [Unchanged.]

(D) Evidence. An Indian child may be removed from a parent or Indian custodian, or, for an Indian child already taken into protective custody pursuant to MCR 3.963 or MCR 3.974(B), remain removed from a parent or Indian custodian pending further proceedings, only upon clear and convincing evidence, ~~including the testimony of at least one qualified expert witness, as described in MCL 712B.17, who has knowledge about the child-rearing practices of the Indian child's tribe,~~ that active efforts as defined in MCR 3.002 have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family, that these efforts have proved unsuccessful, and that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. The active efforts must take into account the prevailing social and cultural conditions and way of life of the Indian child's tribe. The evidence must include the testimony of at least 1 qualified expert witness, who has knowledge of the child rearing practices of the Indian child's tribe, that the continued custody of the Indian child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the Indian child.

(E)-(F) [Unchanged.]

Staff Comment (ADM File No. 2023-34): The amendment of MCR 3.967(D) aligns the rule with MCL 712B.15, as amended in 2016, to clarify the applicability of qualified expert witness testimony in a removal hearing involving an Indian child.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.



I, Larry S. Royster, 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.

May 22, 2024

Handwritten signature of Larry S. Royster in black ink.

Clerk