



## **Michigan Supreme Court**

State Court Administrative Office

### **Trial Court Services Division**

Michigan Hall of Justice

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Jennifer Warner  
Director

March 26, 2018  
Amended April 25, 2018

### **MICHIGAN COURT FORMS COMMITTEE** Criminal Workgroup Minutes of March 1, 2018

- Present: Tamela Akins, 3rd Circuit Court  
David Gilbert, Calhoun County Prosecutor  
Kathryn Griffin, 45th Circuit Court  
Honorable Scott Hill-Kennedy, 49th Circuit Court  
Carmen Knight, 36th District Court  
Miriam Perry, Washtenaw County Asst. Public Defender  
Honorable Gerald Prill, 52nd Circuit Court  
Elaine Richardson, 28th Circuit Court  
Renee Shelide, 46th District Court  
Jessica Testolin, 73B District Court  
Jeff Kirkpatrick, Universal Fire and Casualty Insurance Company  
Jay Francisco, Judicial Information Services (Staff)  
Stephanie Beyersdorf, Trial Court Services (Staff)  
Sheryl Doud, Trial Court Services (Staff)  
Bobbi Morrow, Trial Court Services (Staff)  
Michele Muscat, Trial Court Services (Staff)  
Julia Norton, Trial Court Services (Staff)  
Rebecca Schnelz, Trial Court Services (Staff)  
Andrew Smith, Trial Court Services (Staff)  
Matthew Walker, Trial Court Services (Staff)  
Stacy Westra, Trial Court Services (Staff)
- Absent: Jacqueline McCann, State Appellate Defender Office  
Honorable William McConico, 36th District Court  
Takura Nyamfukudza, Chartier & Nyamfukudza, P.L.C.  
Honorable Travis Reeds, 52-1 District Court

Alisa Shannon, 3rd Circuit Court – Criminal Division  
Tracy Smith, 30th Circuit Court  
Deanna Swisher, Foster Swift Collins & Smith PC  
Carol Rochester, Judicial Information Services (Staff)

**1. Minor Changes**

**MC 399, Motion to Set Aside Forfeiture and Discharge of Bond and Notice of Hearing**

The committee added “Attorney” to the signature line to accommodate a surety corporation represented by counsel. The form was approved as revised.

**MC 406a, Petition to Discontinue Sex Offender Registration  
MC 406b, Order on Petition to Discontinue Sex Offender Registration**

The committee added district court to the header of these forms to accommodate a small number of sex offender registration offenses that are handled at the district court level. The forms were approved as revised.

**2. Deletion Review**

The committee reviewed the following forms for possible deletion:

<b>Form</b>	<b>Last Revision</b>
CC 261, Waiver of Arraignment and Election to Stand Mute or Enter Not Guilty Plea	3/08
MC 233, Order for Fingerprints	5/07
MC 239, Removal of Entry from LEIN	3/06
MC 260, Waiver of Trial by Jury and Election to Be Tried without Jury	3/08

Public comments indicated that all of these forms are used on a regular basis. The committee retained all of the forms.

**3. Ability to Pay Suggestions**

The committee considered a suggestion from Street Democracy, a non-profit legal services organization serving the Detroit area, that multiple forms be revised to include language about payment alternatives under MCR 6.425(E)(3)(b). Street Democracy states that many court forms only advise defendants that payments are due at the time of assessment (MCR 1.110), but fail to mention the exceptions listed in MCR 6.425(E)(3). Street Democracy’s

opinion is that emphasis on immediate payment perpetuates the perception that it is better to avoid courts than to show up with at least some money.

**A. CC 219b, Judgment of Sentence (Commitment to Department of Corrections)**

The committee considered revising item 10 to include language stating, “If you are not able to pay due to financial hardship, contact the court immediately to request a payment alternative.” Members discussed whether or not payment alternatives are appropriate to list for an individual committed to the Department of Corrections. SCAO staff remarked that courts will typically complete MC 288, Order to Remit Prisoner Funds for Fines, Costs, and Assessments. The committee decided that it was not necessary to apply the payment alternatives language to this form.

The form was not revised.

**B. CC 243a, Order of Probation**

The committee considered revising item 6 to include language stating, “If you are not able to pay due to financial hardship, you have the right to request a payment alternative pursuant to MCR 6.425(E)(3).” Members agreed with the suggestion to add language for MCR 6.425(E)(3) to this form. However, members did not agree with the draft language or suggested placement on the form.

Instead of the draft language, the committee added the language “If you are not able to pay due to financial hardship, contact the court immediately to request a payment alternative. MCR 6.425(E)(3).” The committee preferred this language because it does not infer that you have a right to a payment alternative, only the ability to request a payment alternative. The citation to the court rule was included for reference.

Members did not think the payment alternatives language should be placed after the fines language in item 6. Members remarked that having the payment alternatives language at this location seems contradictory because the fines language indicates that everything must be paid or a fee will be added. The committee placed the language above the judge’s signature line, after the sentence “Failure to comply with this order may result in a revocation of probation and incarceration.”

The form was approved as revised.

**STAFF NOTE:** In the checkbox item regarding 18 USC 922(g)(8) above item 1, the words “pursuant to” were replaced with “under” in accordance with standards. In item 5, a double asterisk was added before “Needed for NCIC entry.”

### **C. DC 243, Order of Probation**

The committee considered revising item 6 to include language stating, “If you are not able to pay due to financial hardship, you have the right to request a payment alternative pursuant to MCR 6.425(E)(3).”

Members agreed with the suggestion to add language for MCR 6.425(E)(3) to this form. However, members did not agree with the draft language or suggested placement on the form.

Instead of the draft language, the committee added the language “If you are not able to pay due to financial hardship, contact the court immediately to request a payment alternative. MCR 6.425(E)(3).” The committee preferred this language because it does not infer that you have a right to a payment alternative, only the ability to request a payment alternative. The citation to the court rule was included for reference.

Members did not think the payment alternatives language should be placed after the fines language in item 6. Members remarked that having the payment alternatives language at this location seems contradictory because the fines language indicates that everything must be paid or a fee will be added. The committee placed the language above the judge’s signature line, after the sentence “Failure to comply with this order may result in a revocation of probation and incarceration.”

The form was approved as revised.

**STAFF NOTE:** In the checkbox item regarding 18 USC 922(g)(8) above item 1, the words “pursuant to” were replaced with “under” in accordance with standards. In item 5, a double asterisk was added before “Needed for NCIC entry.”

### **D. DC 213, Advice of Rights and Plea Information**

The committee considered revising item 10 to state, “Unless there is good cause, fines, costs, and other financial obligations imposed by the court must be paid at the time of assessment pursuant to MCR 1.110. If you are not able to pay due to financial hardship, you have the right to request a payment alternative pursuant to MCR 6.425(E)(3).”

Members first discussed adding “Unless there is good cause” to the MCR 1.110 language. SCAO staff commented that this language is not included in any other form that includes the MCR 1.110 language. Members agreed that it is not necessary to include the good cause exception in the language.

Members next discussed adding the payment alternatives language to this form. SCAO staff remarked that adding the language to this form could be confusing because the

defendant hasn't been sentenced yet, and payment alternatives are only available after the defendant has been sentenced. See MCR 6.425(E), Sentencing Procedure. Members acknowledged that the defendant could not exercise payment alternatives at the time they receive this form. However, the committee thought it was important to include the language to notify the defendant of the option. The committee added the language "If you are not able to pay due to financial hardship, contact the court immediately to request a payment alternative. MCR 6.425(E)(3)" to item 10.

The form was approved as revised.

**STAFF NOTE:** After consultation with Supreme Court Administrative Counsel, the language in item 10 regarding MCR 1.110 was replaced with a restatement of the entirety of MCR 1.110.

#### **E. MC 219, Judgment of Sentence (Commitment to Jail)**

The committee considered revising item 12 to remove the language, "Only the fine and some costs may be satisfied by serving time in jail." SCAO staff noted that this language was added by the Criminal Forms Workgroup in 2005. At that time, the minutes state that the language was added to clearly indicate that serving jail time does not offset restitution, crime victim fees, minimum state costs, or other related costs.

SCAO staff remarked that the language may have been added because of MCL 780.73, which states that "any person incarcerated on a bailable offense who does not supply bail and against whom a fine is levied on conviction of such offense shall be allowed a credit of \$5.00 for each day so incarcerated prior to conviction except that in no case shall the amount so allowed or credited exceed the amount of the fine." However, MCL 780.73 falls under the Bail for Traffic Offenses or Misdemeanors Act and does not appear to apply to felonies. After further discussion, the committee concluded that there is no clear reason that this language should be included on this form. For that reason, the committee removed the language.

The committee considered revising item 12 to include the payment alternatives language. Members agreed that the language should be included on the form. The committee added the language "If you are not able to pay due to financial hardship, contact the court immediately to request a payment alternative. MCR 6.425(E)(3)." after the sentence in item 12 about fines and costs.

The form was approved as revised.

**F. MC 238, Judgment after Bond Forfeiture**

The committee considered revising this form to include language about payment alternatives. SCAO staff noted that this form is a civil judgment after bond forfeiture, not a criminal sentence. Members remarked that the payment alternatives language would not apply to this form because it is a civil judgment. The committee did not add the payment alternatives language to this form.

The form was not revised.

**G. MC 242, Assignment to Youthful Trainee Status**

The committee considered revising item 7 to remove the language, “Only the fine and some costs may be satisfied by serving time in jail.” Members agreed to remove the language for the reasoning in agenda item 3(E). The committee removed the language from item 7.

The committee also considered revising the form to include language about payment alternatives under MCR 6.425(E)(3). Members agreed that the language should be included on the form. The committee added the language “If you are not able to pay due to financial hardship, contact the court immediately to request a payment alternative. MCR 6.425(E)(3).” after the sentence in item 12 about fines and costs. The committee also corrected the word “juvenile” to “defendant” in item 7.

The form was approved as revised.

**H. MC 258, Report of Nonpayment of Restitution**

The committee considered revising the form to include a note to the probationer stating, “If you are not able to pay due to financial hardship, contact the court immediately to request a payment alternative.”

Members did not think the payment alternatives language was necessary on this form because it is filled out by the probation officer and filed with the court as a report. While the defendant receives a copy of the form, the payment alternatives language would appear in other forms prior to the defendant receiving this one. So, the defendant would already be on notice of payment alternatives. For those reasons, the committee did not revise the form.

The form was not revised.

### **I. MC 294, Order Delaying Sentence**

The committee considered revising item 9 to remove the language, “Only the fine and some costs may be satisfied by serving time in jail.” Members agreed to remove the language for the reasoning in agenda item 3(E). The committee removed the language from item 9.

The committee also considered revising item 9 to include a note to the defendant stating, “If you are not able to pay due to financial hardship, contact the court immediately to request a payment alternative.” SCAO staff noted that it isn’t clear that MCR 6.425(E)(3) applies to a delayed sentence. In a delayed sentence under MCL 771.1, the court may delay sentencing a defendant for not more than 1 year. Members agreed that because the defendant isn’t being sentenced, it isn’t clear that MCR 6.425(E)(3) would apply. For that reason, the committee did not include the payment alternatives language on the form.

The form was approved as revised.

**STAFF NOTE:** The language “Only the fine and some costs may be satisfied by serving time in jail” is also included on MC 96, Judgment of Contempt. MC 96 is revised to remove this language from the form for the reasoning provided in agenda item 3(E).

### **4. CC 414, Plea Agreement**

The committee considered modifying this form for use in district courts. This form is required by MCR 6.302(C)(1) in felony cases. Under MCR 6.302(C)(1), parties may state a plea agreement on the record or reduce it to a writing on a form substantially similar to CC 414. MCR 6.302(C)(1) does not apply to misdemeanor cases. See MCR 6.001(B). However, the misdemeanor plea rule, MCR 6.610(E)(5), does not require or prohibit a written record of a plea agreement.

Members discussed the current practice of plea agreements in district court. Members noted that many courts and prosecutors already use a written form. Members agreed that modifying the form for use in district court would be helpful to the legal community.

The committee removed “Pursuant to MCR 6.302(C)” and replaced “State of Michigan” with “prosecuting attorney” in the sentence above item 1. The form was changed from CC to MC, judicial district was added to the title bar, a third copy for the prosecutor was added to the distribution, and citation to MCR 6.610(E)(5) was added to the footer.

The form was approved as revised.

## **5. DC 118, Complaint and Summons Regarding Dangerous Animal**

The committee considered a suggestion that the subparagraphs in item 2 do not comply with the statutory language found in MCL 287.286a(1).

Members reviewed the first subparagraph. The form states, “the dog is over 6 months old, was without a license attached to its collar, and ran at large unaccompanied by its owner or engaged in lawful hunting after January 10 and before June 15.” The statute states, “After January 10 and before June 15 in each year a dog over 6 months old is running at large unaccompanied by its owner or is engaged in lawful hunting and is not under the reasonable control of its owner without a license attached to the collar of the dog.” MCL 287.286a(1)(a).

Members discussed that a strict textual reading of the statute would lead to an interpretation that a dog is dangerous because it is over 6 months old, running at large unaccompanied by its owner after January 10 and before June 15, or is engaged in lawful hunting and is not under the reasonable control of its owner without a license attached to the dog’s collar. The committee did not think this is the correct interpretation of the statute. Instead, the “after January 10 and before June 15” portion of the statute is likely intended to apply to the time period of lawful hunting. The committee decided to leave the language on the form as it is, but add “not under the reasonable control of its owner” after the word hunting.

Members considered modifying another subparagraph. The form states, “the dog ran at large even though licensed and wearing the license tag.” The statute states, “A dog duly licensed and wearing a license tag has run at large contrary to this act.” MCL 287.286a(1)(e). The committee agreed that the form conforms to the statutory language. For that reason, the committee did not change this subparagraph.

The form was approved as revised.

**STAFF NOTE:** After consultation with Supreme Court Administrative Counsel, the first subparagraph of item 2 was further revised. The words “and was” were added before “not under the reasonable control of its owner.”

## **6. DC 213, Advice of Rights**

A. The committee considered a suggestion from a district court judge that item 9 of this form be modified to more fully account for offenses where the penalty is over 93 days in jail. Item 9 states “You can be sentenced up to 93 days in jail or fined up to \$500 plus costs, or both unless otherwise advised by the court. (The court will advise you if there is a minimum jail sentence.)”

SCAO staff explained that variations of this statement have been on the form since 1988 but have not accounted for offenses with higher penalties, except for the statement “unless otherwise advised by the court.” This issue was also addressed by the Court Forms Committee in 2011. At that time, the judge who made the suggestion had explained that (a) it is the judge’s responsibility to advise the defendant of the penalties and (b) not all misdemeanors are 93 days. At that time, the committee noted that, while this information is not required to be on the form, it is helpful because many misdemeanors do indeed have a maximum penalty of 93 days and/or a \$500 fine. The committee remarked that, while it is true that the judge should inform the defendant of the maximum penalty, the statement on the form is accurate because it indicates this is the penalty “unless otherwise advised by the court.” The 2011 committee further pointed out that having this information on the form allows the defendant to see it in writing as well as hear it from the judge, that MCR 6.610(D) and (E) allow some rights and information to be given in writing, and this statement accomplishes that task (if the court wishes to use the form for this purpose).

SCAO staff explained that the current design of this form allows for courts to use this writing without having to address many things on the record. Courts are required to provide the maximum sentence permitted by law. See MCR 6.610(D)(1). If the “93 days in jail or fined up to \$500” information is removed, judges will need to address that information every time. If the information is turned into a writing space, courts would need to fill in the information prior to giving the defendant the form.

Members stated that there are plenty of misdemeanors in which the penalty is different than 93 days in jail or \$500 fine and the majority of judges and magistrates provide the maximum sentence on the record already. For that reason, the committee agreed that the language should be modified to accommodate all misdemeanor sentences.

The committee reviewed the public comments for this agenda item. The committee replaced the language in item 9 with the following statement, “9. You can be sentenced to jail and fines, plus costs. (The court will tell you the maximum jail time, fines, and if there is a minimum jail sentence.)” The committee reasoned that this language would accommodate all misdemeanor sentences with minimal impact to judges and magistrates.

- B. The committee considered modifying item 5d of this form to replace the word “until” with “unless” to match Michigan Model Criminal Jury Instructions 1.9 and 3.2. Members agreed that this change should be made. The committee replaced the word “until” with “unless.”

The form was approved as revised.

**STAFF NOTE:** The language of item 9 was further revised to reflect the language of MCR 6.610(D)(1)(a) and (E)(3)(a). The language now reads, “You can be sentenced to jail and fines, plus costs. The court will tell you on the record the name of the offense, the mandatory minimum jail sentence, if any, and the maximum possible penalty for the offense (including jail, fines, or both).”

After consultation with Supreme Court Administrative Counsel, the language in item 10 pertaining to fines and costs was replaced with a restatement of MCR 1.110.

## **7. MC 203, Writ of Habeas Corpus**

The committee considered removing or modifying item 4 on this form, which requests the Michigan Department of Corrections (MDOC) to produce the prisoner for video conference. The State Court Administrative Office has been made aware that MDOC does not require a writ of habeas corpus to produce a prisoner for a video hearing. Instead, an email with the following information is sufficient for scheduling:

MDOC PRISONER #:  
Offender’s Name:  
Court Date:  
Time (and TIME ZONE if out-of-state):  
County:  
Court/Jurisdiction:  
Case/Docket #:  
Charge(s) if applicable:  
Judge:  
Reason for writ/order (Felony, Misd., Civil, Etc...):  
Type of Proceeding:  
Needed 1/2 hr prior by phone for counsel (Y/N):

Members did not think that item 4 should be removed, but commented that only checking item 4 does not provide MDOC with the information necessary for the video conference. So, even if a court used this form, the court would still need to send an email. Members thought that if the form were redesigned, all of the necessary information could be provided, eliminating the need for a separate email. Members requested that SCAO staff redesign the form for presentation at the 2019 forms workgroup meeting.

The form was not revised.

**8. MC 227, Application to Set Aside Conviction  
JC 66, Application to Set Aside Adjudication(s)**

The committee considered modifying the instructions of these forms to clarify the requirement that a certified copy of the conviction or adjudication must be filed with the application. Members agreed that modifying the instructions would clarify that the certified copy should be filed with the application.

The committee added the words “and attach it to your application” at the end of item 2 of the instructions on both MC 227 and JC 66.

On MC 227, the committee also removed the reference to Michigan Legal Help from the bottom of page two. Instead, the committee placed the sentence “For additional instructions and an online interview that will help you create forms, go to michiganlegalhelp.org” at the top of the instructions, consistent with JC 66. In addition, the committee corrected reference to the Michigan State Police form from “R-1-8” to “RI-8.”

The forms were approved as revised.

**9. MC 240, Pretrial Release Order**

\*Jeff Kirkpatrick from Universal Fire and Casualty Insurance Company joined the discussion for this agenda item. Jeff is an experienced surety agent.

A. The committee considered modifications to the language under the “Bond deposited by  Third Party  Surety/Agent” section on page 3 of the form. The suggester stated that the form incorrectly indicates that the surety is responsible for all the terms and conditions of a defendant’s pretrial release. Surety agents are only responsible for the defendant’s appearance and not any other terms and conditions of release. See MCL 765.28(1) and MCR 6.106(I)(2)(b).

Members agreed that surety agents are only responsible for the defendant’s appearance and not any other terms and conditions of release, according to MCR 6.106(I)(2)(b). The committee modified the language in the block to state the following:

I understand and agree that if the defendant fails to appear, the money deposited (bond) may be forfeited and a judgment entered for the entire amount of the bond. If the defendant appears as directed, the full amount of the bond will be returned to me unless I deposited a 10% case bond. In that instance, the court will return only 90% of the deposited money to me.

- B. The committee considered a suggestion that a "Bond Acceptance" section be added on page 3. The suggester stated that the bond acceptance section is helpful to indicate who signed the bond, in case there are any issues or missing information.

SCAO staff explained that a bond acceptance section was present on MC 241, prior to it being integrated into MC 240. In 2017, when MC 240 and 241 were integrated, the committee briefly discussed this issue. At that time, members thought that the acceptance section acted as a kind of receipt. The committee thought it would be unnecessary because most courts and jails issue a separate receipt.

SCAO staff acknowledged that the Acknowledgment of Pretrial Release Conditions section (the last page) of the form was not designed as or intended to be a receipt. Members agreed that the form is not a receipt and that courts and jails should be issuing a separate receipt generated by their computer system. Members stated that adding a bond acceptance section to this form would be purely for tracking who signed the bond. However, tracking who signed the bond does not appear to be a significant issue for the majority of courts and jails. For that reason, the committee did not add the bond acceptance section to the form.

The committee also addressed the public comments of Vicki Nellis of the 52nd District Court. Ms. Nellis suggested adding the defendant's name to the second page header. SCAO staff commented that the second page header is a standard that is applied across multiple forms. If changed, it would be changed across the board. Members did not feel it was necessary to add the defendant's name because the case number is present. The committee did not adopt the suggestion.

The form was approved as revised.

#### **10. MC 256, Summons, Criminal**

The committee considered removing "Court clerk" from the signature line of this form because a court clerk does not have the legal authority to sign a criminal summons. Members agreed that a court clerk does not have the legal authority to sign the summons and removed "Court clerk" from the signature line.

The form was approved as revised.

**STAFF NOTE:** After the writing space for time, "m." was removed.

### **11. MC 267, Order for Vehicle Immobilization**

The committee considered modifying item 1 of this form to accommodate convictions under MCL 257.626(3) and (4) as provided by MCL 257.904d(1)(a). Members agreed a checkbox option should be added to item 1 for a violation of 626(3) and (4). The committee added a checkbox to item 1 stating, “violating section 626(3) or (4).”

The committee also considered modifications to the first and second checkbox options of item 1 which states, “violating section 625 of the Michigan vehicle code or a substantially corresponding local ordinance” and “violating 625(4) or (5) of the Michigan vehicle code or a substantially corresponding local ordinance.” Members were uncertain why the first checkbox option appears to cover all violations under section 625 and then the second checkbox option covers options (4) and (5). Because it was unclear, the committee modified the first checkbox option to match MCL 257.904d(1)(a). The language was modified to “violating section 625(1), (3), (7), or (8) of the Michigan vehicle code or a substantially corresponding local ordinance.” The committee also modified the second checkbox option by removing the language “or a substantially corresponding local ordinance” because that language does not appear in MCL 257.904d(1)(b).

The committee also corrected a typographical error with the word “ignition” in item 3b.

The form was approved as revised.

### **12. MC 288, Order to Remit Prisoner Funds for Fines, Costs, and Assessments**

The committee considered modifications to update this form to current Michigan Department of Corrections (MDOC) procedures, addresses, and terminology. Members agreed with updating the terminology and address information. The committee changed all references from “defendant” to “prisoner” to be consistent with other forms. The committee changed all references from “defendant’s prisoner account” and “institutional account” to “prisoner’s trust account” in accordance with MDOC terminology. The mailing block was updated by removing the fax number and updating the address to:

ATTN: Court Order Department  
Michigan Department of Corrections  
Jackson Business Office  
4000 Cooper St.  
Jackson, MI 49201

[MDOC-CourtOrders@michigan.gov](mailto:MDOC-CourtOrders@michigan.gov)

The committee also considered removing the writing space for SID from the form because the Michigan Department of Corrections reported that they do not use it. Members discussed that the SID is helpful to identify an individual if the prisoner number is not known. The committee decided to keep the SID writing space on the form.

The form was approved as revised.

**STAFF NOTE:** The order of circuit and district court in the header were reversed.

### **13. MC 290, Satisfaction of Financial Obligation**

The committee considered modifications to update this form to current Michigan Department of Corrections (MDOC) procedures, addresses, and terminology. Members agreed with updating the terminology and address information. The committee changed all references from “defendant” to “prisoner” to be consistent with other forms. The committee changed all references from “defendant’s prisoner account” and “institutional account” to “prisoner’s trust account” in accordance with MDOC terminology. The mailing block was updated by removing the fax number and updating the address to:

ATTN: Court Order Department  
Michigan Department of Corrections  
Jackson Business Office  
4000 Cooper St.  
Jackson, MI 49201

[MDOC-CourtOrders@michigan.gov](mailto:MDOC-CourtOrders@michigan.gov)

The committee also considered removing the writing space for SID from the form because the Michigan Department of Corrections reported that they do not use it. Members discussed that the SID is helpful to identify an individual if the prisoner number is not known. The committee decided to keep the SID writing space on the form.

The form was approved as revised.

### **14. MC 502, Notice of Filing of Transcript and Affidavit of Mailing**

The committee considered a suggestion to modify item 1 of this form to include a writing space for a date. The suggester stated that “this date” should be replaced with a writing

space because court reporters do not always file the transcript on the date this form is filed. Members agreed with this suggestion.

The committee also considered adding e-mail to the Affidavit of Mailing section of the form. Members did not agree with the suggestion because it is not clear that MCR 7.109(B)(3)(e) or MCR 7.210(B)(3)(e) allow for e-mail service of the transcript. Therefore, no change was made.

The form was approved as revised.

#### **15. New Form Request: Probation Violation Advice of Rights**

The committee considered creating a new probation violation advice of rights form to help ensure probationers fully understand their rights and the process. The form would be created to provide the information in MCR 6.445(B), (C), (D), and (E). These subrules apply to misdemeanor and felony cases. See MCR 6.001(A) and (B). These subrules are silent on the use of a written advice of rights for probation violations.

SCAO staff asked if creating a form would steer courts away from reviewing the rights listed in MCR 6.445 on the record. Members did not think that a form would cause courts not to review probation violation rights on the record. Members remarked that a form would be helpful because it would allow probationers to review their rights before the violation hearing and be more prepared. The committee agreed to create the form and that it would be used at the probation violation arraignment.

The committee reviewed the draft form and made changes.

In item 2, the words “having violated” were replaced with “violating.” In item 2b, the committee removed the sentence “You may plead no contest with the permission of the court” because no-contest pleas are not listed as an option in MCR 6.445(F).

In item 3, the committee deleted items 3a and 3b because they are not listed in MCR 6.445(B)(2)(b). The committee rephrased item 3 to state, “You have the right to an attorney appointed at public expense if you want an attorney and you are financially unable to retain one.” The committee combined items 3 and 4 because both items were related to a court-appointed attorney.

In items 7 and 10, the committee struck the words “or no contest” because no-contest pleas do not appear as an option in MCR 6.445(F).

The committee removed item 9 because MCR 6.445(C) makes clear that a probationer can be held for 14 days after arraignment.

The committee modified item 11 to include payment alternatives language under MCR 6.425(E)(3). The committee added the sentence “If you are not able to pay due to financial hardship, contact the court immediately to request a payment alternative. MCR 6.425(E)(3).”

The form was approved as revised.

**STAFF NOTE:** Additional modifications were made to this form.

Item 8, which stated “If you choose to proceed without an attorney, you will give up your right to a lawyer’s assistance,” was combined with items 3 and 4. The language “You may have to repay the expense of a court-appointed attorney” with “If you are able to pay part of the cost of a lawyer, the court may require you to contribute to the cost of providing a lawyer and may establish a plan for collecting the contribution” to more accurately reflect MCR 6.005(C).

In item 5, the language “You have the right to a reasonably prompt hearing date” was replaced with “The court must set a reasonably prompt hearing date or postpone the hearing” to reflect MCR 6.445(C). Item 5d was replaced was revised to clarify that the prosecuting attorney has the burden of proof.

Item 6 was revised to include a statement that the court will advise the defendant of the maximum possible jail or sentence for the offense as provided under MCR 6.445(F)(2).

After consultation with Supreme Court Administrative Counsel, item 1 (the ADA/LEP language) was moved to the bottom of the form as a note because it is not part of the court rule. Subsequent items were renumbered. In item 3 (formerly item 4), the language “[t]he hearing of a probationer being held in custody for an alleged probation violation must be held within 14 days...” was replaced for clarity. The new language states, “If you are being held in custody for an alleged probation violation, the probation violation hearing must be held within 14 days....” In addition, the language in item 7 (formerly item 8) pertaining to fines and costs was replaced with a restatement of MCR 1.110.