



Michigan Supreme Court

State Court Administrative Office

Court Services Division

Michigan Hall of Justice

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Jennifer Warner
Director

MEMORANDUM

DATE: February 19, 2020

TO: All Judges
Court Administrators
Probate Registers
County Clerks

FROM: Jim Inloes
Management Analyst

RE: Amendment of MCR 8.115

The Michigan Supreme Court adopted the proposed amendment of MCR 8.115 with some modifications from the previously published version. The new rule is effective May 1, 2020, to give courts ample time to modify any policies, procedures, and/or signage to reflect any changes from previous court policies that are inconsistent with the new rule. The key elements of the new rule are:

1. Portable electronic devices as defined by the court rule are permitted in Michigan courthouses.
2. Attorneys, parties, and members of the public are permitted to use portable electronic devices in a courtroom to retrieve and store information (including notetaking), to access the Internet, and to send and receive text messages or information, but must silence them while in a courtroom. No audible function (including making or receiving a telephone call) may be used in a courtroom without permission of the court. Portable electronic devices may not be used to communicate in any way with any courtroom participant, including a party, witness, or juror. Use of portable electronic devices is permitted outside of a courtroom, provided their use is not disruptive or in violation of the specific prohibitions outlined in the court rule.
3. Jurors must turn off their portable electronic device while in the courtroom and the court may order jurors to turn in their portable electronic device during deliberation.

4. Witnesses must silence their portable electronic device while in a courtroom and may only use a device while testifying with permission of the judge.
5. Attorneys, parties, and members of the public may use a portable electronic device to reproduce public court documents in a clerk's office as long as the device leaves no mark or impression on the document and does not unreasonably interfere with the operation of the clerk's office.
6. In a courtroom, no photographs or audio or video recording, broadcasting, or live streaming may occur unless specifically allowed by the presiding judge. Courts may adopt by local administrative order (LAO) reasonable limits on photography and audio or video recording or broadcasting in a courthouse that are not inconsistent with the court rule.
7. Any allowed use of a portable electronic device is subject to termination by a judge if that use "is disruptive or distracting to a court proceeding, or ... is otherwise contrary to the administration of justice."
8. The new rule does not modify or supersede the separate administrative order relating to media coverage of court proceedings (AO No. 1989-1).
9. If the rules are violated, the presiding judge may confiscate the device for the remainder of the day or order that the device be turned off and put away. Violations are punishable by appropriate sanctions up to and including contempt of court.

We are aware of the many concerns raised in the comments about the proposed rule. To address those, we suggest the following for courts that currently have a complete ban on bringing electronic devices into the courthouse:

- If the court is considering developing a local administrative order under MCR 8.115(C)(3)(d), develop those additional limits in consultation with all judges, county clerks, and the court's security committee. If there are non-court departments within the facility, make them aware of the new rule and how it may affect them.
- Courts should prominently display any additional restrictions outlined in their local administrative order (see #6 above) for the use of electronic devices in the courtroom, including the penalties for violating the court rule.
- Courts should consider announcing the requirements for electronic device usage at the beginning of a new court proceeding, as well as posting those requirements.

[Model LAO 8](#) has been modified to reflect changes in the court rule that permit individuals to photograph documents. This will require courts to resubmit this LAO to SCAO for approval no later than **May 1, 2020**.

Questions relating to the rule amendment should be forwarded to your regional administrator.