

Michigan Supreme Court
State Court Administrative Office
Michigan Hall of Justice
P.O. Box 30048
Lansing, Michigan 48909
Phone (517) 373-0130
John D. Ferry, Jr., State Court Administrator

Memorandum

DATE: June 13, 2003

TO: Michigan District Court Judges
District Court Administrators/Clerks
Magistrates

FROM: John D. Ferry, Jr., State Court Administrator

RE: SCAO Administrative Memorandum 2003-06
Michigan Uniform Law Citation

In 1995, several issues regarding the Uniform Law Citation were addressed in an informational memorandum. The issues were addressed by a meeting of agencies authorized to approve the form of the Uniform Law Citation¹.

The following are the determinations from that meeting:

- Removal of Notary MCL 764.1e indicates that a complaint signed by a peace officer is considered made under oath if it contains the standard declaration. The definition of a peace officer includes both a police officer or other public servant authorized by law to issue an appearance ticket referred to under MCL 764.9f. These are the only individuals authorized to issue citations. Therefore the Uniform Law Citation does not require a notary.
- Deputizing Law Enforcement This issue was not discussed at the meeting, but is included because of recent inquiries from the courts. Courts need not deputize law enforcement officers as clerks in order to file “sworn” citations with the courts. MCL 257.727c, MCL 600.8705(3), MCL 600.8805(3), and MCL 764.1e indicate that it is considered made under oath if it contains the standard declaration.
- Complainant's Signature The complainant is the peace officer who acts on behalf of the victim or complaining witness. It is not appropriate for the victim or complaining witness to sign the citation. If it is necessary for a complainant, who is not an officer, to sign the complaint. Form DC 225 - Misdemeanor Complaint and Warrant, should be prepared instead of the

¹State Court Administrative Office, Michigan State Police, Secretary of State, and the Attorney General's Office, MCL 257.727c(1). Also attending were staff of the House of Representatives.

- appearance ticket and the complainant should be brought before the prosecuting attorney to sign the complaint.
- Filing of Formal Sworn Complaint The Uniform Law Citation is the formal sworn complaint as is Form DC 225. Courts may require prosecutorial review of the citation or the filing of a "formal" complaint on Form DC 225 as a matter of preference for purposes of ensuring that the complaint has been reviewed by an attorney. This is not a requirement of the statute. MCL 764.9g authorizes the process from filing to hearing on the citation alone and was not intended to require the filing of DC 225 before the court. MCL 764.9g was intended to allow for the option of proceeding on either the appearance ticket (Uniform Law Citation) or DC 225 depending on the preference of the local jurisdiction. The primary point of MCL 764.9g is to ensure that the court does not proceed until either the citation or other sworn complaint has **actually been filed** since there are instances in which the defendant may appear in court before the citation has been filed.
 - Perjury Prosecution on Declaration MCL 600.1432 specifies a formal process for administering oaths which requires the person who swears to hold up the right hand, to be observed by someone authorized to administer oaths, and commenced by the words "You do solemnly swear or affirm." In a fairly recent case, People v Ramos, 430 Mich 544 (1988), the defendant could not be prosecuted for perjury because of the lack of an actual swearing to the words identified in MCL 600.1432. However, the Supreme Court noted in footnote 37 that the signing of a form containing the warning that the signature was under the penalties of perjury in itself constitutes an oath and a person who makes a false statement "is guilty of perjury." The Attorney General's office concluded that the phrasing of MCL 764.1e(2) to indicate that a person who makes a false statement "is guilty of perjury," falls within the exception noted in footnote 37 of People v Ramos and, consequently, is not required to comply with the formal swearing procedure identified in MCL 600.1432, and that a perjury prosecution can be pursued based on an officer's false statement in a signed complaint which includes the declaration.
 - Violations with Maximum Penalty over 93 Days Some law enforcement agencies issue appearance tickets for one year misdemeanor violations, such as possession of marijuana, in conjunction with motor vehicle violations. MCL 764.9f limits issuance of a citation to a violation with a penalty which does not exceed 93 days, and prohibits issuance altogether for some offenses. The use of the Uniform Law Citation may reduce the likelihood that defendants are fingerprinted when required, thus reducing the completeness of criminal history records. **The Uniform Law Citation may not be used to substitute for a prosecutor-issued criminal complaint for any violation with a penalty over 93 days.** Courts receiving such citations must not open a case until a complaint authorized by the prosecutor is received. Citations for violations with a penalty over 93 days should be treated as if marked "Authorization Pending."

If you have any questions about these determinations, please contact Sandi Hartnell by phone (517-373-0122) or e-mail (hartnells@courts.mi.gov).