

# Order

Michigan Supreme Court  
Lansing, Michigan

June 12, 2019

Bridget M. McCormack,  
Chief Justice

ADM File No. 2015-21

David F. Viviano,  
Chief Justice Pro Tem

Amendments of Rules 3.965,  
3.971, 3.972, 3.973, and 3.993  
of the Michigan Court Rules

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Stephen J. Markman  
Brian K. Zahra  
Richard H. Bernstein  
Elizabeth T. Clement  
Megan K. Cavanagh,  
Justices

On order of the Court, this is to advise that the amendments of Rules 3.965, 3.971, 3.972, 3.973, and 3.993 of the Michigan Court Rules are adopted, effectively immediately. This notice is given to afford interested persons the opportunity to comment on the form or the merits of the amendments. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at [Administrative Matters & Court Rules page](#).

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

## Rule 3.965 Preliminary Hearing

(A) [Unchanged.]

(B) Procedure.

(1)-(14) [Unchanged.]

(15) If the court orders removal of the child from a parent's care or custody, the court shall advise the parent, guardian, or legal custodian of the right to appeal that action.

(C)-(D) [Unchanged.]

## Rule 3.971 Pleas of Admission or No Contest

(A) [Unchanged.]

(B) Advice of Rights and Possible Disposition. Before accepting a plea of admission or plea of no contest, the court must advise the respondent on the record or in a writing that is made a part of the file:

(1)-(4) [Unchanged.]

- (5) if parental rights are subsequently terminated, the obligation to support the child will continue until a court of competent jurisdiction modifies or terminates the obligation, an order of adoption is entered, or the child is emancipated by operation of law. Failure to provide required notice under this subsection does not affect the obligation imposed by law or otherwise establish a remedy or cause of action on behalf of the parent;
- (6) that appellate review is available to challenge a court's initial order of disposition following adjudication, and such a challenge can include any issues leading to the disposition, including any errors in the adjudicatory process;
- (7) that an indigent respondent is entitled to appointment of an attorney to represent the respondent on appeal of the initial dispositional order and to preparation of relevant transcripts; and
- (8) the respondent may be barred from challenging the assumption of jurisdiction in an appeal from the order terminating parental rights if they do not timely file an appeal of the initial dispositional order under MCR 3.993(A)(1), 3.993(A)(2), or a delayed appeal under MCR 3.993(C).
- (C) Right to Appellate Review. The respondent may challenge the assumption of jurisdiction in an appeal from the order terminating respondent's parental rights if the respondent's parental rights are terminated at the initial dispositional hearing pursuant to MCR 3.977(E). In addition, the respondent may challenge the assumption of jurisdiction in an appeal from the order terminating respondent's parental rights if the court fails to properly advise the respondent of their right to appeal pursuant to subrule (B)(6)-(8).
- (D) [Relettered but otherwise unchanged.]

#### Rule 3.972 Trial

(A)-(E) [Unchanged.]

- (F) Respondent's Rights Following Trial and Possible Disposition. If the trial results in a verdict that one or more statutory grounds for jurisdiction has been proven, the court shall advise the respondent orally or in writing that:
- (1) appellate review is available to challenge a court's assumption of jurisdiction in an appeal of the initial order of disposition,
- (2) that an indigent respondent is entitled to appointment of an attorney to

represent the respondent on appeal and to preparation of relevant transcripts, and

(3) the respondent may be barred from challenging the assumption of jurisdiction if they do not timely file an appeal under MCR 3.993(A)(1), 3.993(A)(2), or a delayed appeal under MCR 3.993(C).

(G) Right to Appellate Review. The respondent may challenge the assumption of jurisdiction in an appeal from the order terminating respondent's parental rights if the respondent's parental rights are terminated at the initial dispositional hearing pursuant to MCR 3.977(E). In addition, the respondent may challenge the assumption of jurisdiction in an appeal from the order terminating respondent's parental rights if the court fails to properly advise the respondent of their right to appeal pursuant to subrule (F)(1)-(3).

#### Rule 3.973 Dispositional Hearing

(A)-(F) [Unchanged.]

(G) Respondent's Rights Upon Entry of Dispositional Order. When the court enters an initial order of disposition following adjudication the court shall advise the respondent orally or in writing:

(1) that at any time while the court retains jurisdiction over the minor, the respondent may challenge the continuing exercise of that jurisdiction by filing a motion for rehearing, MCL 712A.21 or MCR 3.992, or by filing an application for leave to appeal with the Michigan Court of Appeals,

(2) that appellate review is available to challenge both an initial order of disposition following adjudication and any order removing a child from a parent's care and custody,

(3) that an indigent respondent is entitled to appointment of an attorney to represent the respondent on any appeal as of right and to preparation of relevant transcripts, and

(4) the respondent may be barred from challenging the assumption of jurisdiction or the removal of the minor from a parent's care and custody in an appeal from the order terminating parental rights if they do not timely file an appeal under MCR 3.993(A)(1), 3.993(A)(2), or a delayed appeal under MCR 3.993(C).

(H) Right to Appellate Review. The respondent may challenge the assumption of jurisdiction in an appeal from the order terminating respondent's parental rights if the respondent's parental rights are terminated at the initial dispositional hearing pursuant to MCR 3.977(E). In addition, the respondent may challenge the assumption of jurisdiction in an appeal from the order terminating respondent's parental rights if the court fails to properly advise the respondent of their right to appeal pursuant to subrule (G)(2)-(4).

(G)-(H) [Relettered (I)-(J) but otherwise unchanged.]

### Rule 3.993 Appeals

(A) The following orders are appealable to the Court of Appeals by right:

- (1) any order removing a child from a parent's care and custody,
- (2) an initial order of disposition following adjudication in a child protective proceeding,
- (34) an order of disposition placing a minor under the supervision of the court in a delinquency proceeding~~or removing the minor from the home,~~

(2)-(5) [Renumbered (4)-(7) but otherwise unchanged.]

In any appeal as of right, an indigent respondent is entitled to appointment of an attorney to represent the respondent on appeal and to preparation of relevant transcripts.

(B)-(C) [Unchanged.]

*Staff Comment:* The amendments of MCR 3.965, 3.971, 3.972, 3.973, and 3.993 incorporate a requirement for a trial court to notify a respondent in a child protection proceeding of the right to appeal following a child's removal from the home and the initial dispositional order, and that failure to do so may bar respondent from later challenging the court's assumption of jurisdiction.

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.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the amendment may be sent to the Supreme Court Clerk in writing or electronically by October 1, 2019, at P.O. Box 30052, Lansing, MI 48909, or [ADMcomment@courts.mi.gov](mailto:ADMcomment@courts.mi.gov). When filing a comment, please refer to ADM File No. 2015-21. Your comments and the comments of others will be posted under the chapter affected by this proposal at [Proposed & Recently Adopted Orders on Admin Matters page](#)



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.

June 12, 2019

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line.

Clerk