

Order

Michigan Supreme Court
Lansing, Michigan

September 18, 2019

Bridget M. McCormack,
Chief Justice

ADM File No. 2018-27

David F. Viviano,
Chief Justice Pro Tem

Rescission of Rule
8.123 of the Michigan
Court Rules

Stephen J. Markman
Brian K. Zahra
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh,
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 rescission of Rule 8.123 of the Michigan Court Rules is adopted, effective immediately.

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

Rule 8.123 ~~Counsel Appointments; Procedure and Records~~

- (A) ~~Applicability. This rule applies to all trial courts, which means all circuit courts, district courts, probate courts, and municipal courts.~~
- (B) ~~Plan for Appointment. Each trial court must adopt a local administrative order that describes the court's procedures for selecting, appointing, and compensating counsel who represent indigent parties in that court.~~
- (C) ~~Approval by State Court Administrator. The trial court must submit the local administrative order to the State Court Administrator for review pursuant to MCR 8.112(B)(3). The State Court Administrator shall approve a plan if its provisions will protect the integrity of the judiciary.~~
- (D) ~~Required Records. At the end of each calendar year, a trial court must compile an annual electronic report of the total public funds paid to each attorney for appointments by that court.~~

~~This subrule applies to appointments of attorneys in any capacity, regardless of the indigency status of the represented party. Trial courts that contract for services to be provided by an affiliated group of attorneys may treat the group as a single entity when compiling the required records.~~

The records required by this subrule must be retained for the period specified by the State Court Administrative Office's General Schedule 16.

- (E) ~~Public Access to Records.~~ The records must be available at the trial court for inspection by the public, without charge. The court may adopt reasonable access rules, and may charge a reasonable fee for providing copies of the records.
- (F) ~~Reports to State Court Administrator.~~ A trial court must submit its annual electronic report to the state court administrator in the form specified by the state court administrator. When requested by the state court administrator, a trial court must cooperate in providing additional data on an individual attorney, judge, or attorney group for a period specified by the request, including the number of appointments by each judge, the number of appointments received by an individual attorney or attorney group, and the public funds paid for appointments by each judge.

Staff Comment: Because counsel appointment plan review and data collection regarding payments for appointed counsel is now, by statute, a requirement of the Michigan Indigent Defense Commission under MCL 780.989 and MCL 780.993, this order rescinds MCR 8.123, which requires certain data be collected from courts and plans for appointment be approved by SCAO.

The staff comment is not an authoritative construction by the Court. In addition, adoption of an 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.

September 18, 2019

Clerk