

Order

Michigan Supreme Court
Lansing, Michigan

November 20, 2019

Bridget M. McCormack,
Chief Justice

ADM File No. 2018-36

David F. Viviano,
Chief Justice Pro Tem

Amendment of Rule
3.802 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 amendment of Rule 3.802 of the Michigan Court Rules is adopted, effective January 1, 2020.

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

Rule 3.802 Manner and Method of Service

(A) Service of Documents.

(1) [Unchanged.]

(2) Notice of a petition to identify a putative father and to determine or terminate his rights, or a petition to terminate the rights of a ~~noncustodial~~ parent under MCL 710.51(6), must be served on the individual or the individual's attorney in the manner provided in:

(a)-(b) [Unchanged.]

(3)-(4) [Unchanged.]

(B) Service When Identity or Whereabouts of Father ~~are~~ is Unascertainable

(1)-(2) [Unchanged.]

- (C) Service When Whereabouts of ~~Noncustodial~~ Parent ~~are~~ Unascertainable. If service of a petition to terminate the parental rights of a ~~noncustodial~~ parent pursuant to MCL 710.51(6) cannot be made under subrule (A)(2) because the whereabouts of ~~that the noncustodial~~ parent ~~have~~ has not been ascertained after diligent inquiry, the petitioner must file proof of the efforts made to locate ~~that the noncustodial~~ parent in a statement made under MCR 1.109(D)(3). If the court finds, on reviewing the statement, that service cannot be made because the whereabouts of the person ~~have~~ has not been determined after reasonable efforts, the court may direct any manner of substituted service of the notice of hearing, including service by publication.
- (D) [Unchanged.]

Staff comment: The amendment of MCR 3.802 eliminates references to the “noncustodial parent” to make the rule consistent with the statute (MCL 710.51) allowing stepparent adoption when the petitioning stepparent’s spouse has joint legal custody, rather than requiring sole legal custody.

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.

November 20, 2019

Clerk