

Order

Michigan Supreme Court
Lansing, Michigan

September 23, 2020

Bridget M. McCormack,
Chief Justice

ADM File No. 2019-13

David F. Viviano,
Chief Justice Pro Tem

Amendment of Rule
7.118 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 7.118 of the Michigan Court Rules is adopted, effective January 1, 2021.

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

Rule 7.118 Appeals from the Michigan Parole Board

(A)-(C) [Unchanged.]

(D) Application for Leave to Appeal.

(1)-(2) [Unchanged.]

(3) Manner of Filing. An application for leave must comply with MCR 7.105, must include statements of jurisdiction and venue, and must be served on the parole board and the prisoner. If the victim seeks leave, the prosecutor must be served. If the prosecutor seeks leave, the victim must be served if the victim requested notification under MCL 780.771.

(a) [Unchanged.]

(b) Service on a prisoner incarcerated in a state correctional facility must be accomplished by serving the application for leave on the warden or administrator, along with the form approved by the State Court Administrative Office for personal service on a prisoner. Otherwise, service must be accomplished by certified mail, return receipt requested, as described in MCR 2.103(C) and MCR 2.104(A)(2) or in compliance with MCR 2.105(A)(2). In addition to the pleadings, service on the prisoner must also include a notice in a form approved by the State Court Administrative Office advising the prisoner that:

(i) the prisoner may respond to the application for leave to appeal through ~~retained~~ counsel or in propria persona, although no response is required, and that an indigent prisoner is entitled to appointment of counsel, and

(ii) [Unchanged.]

(c) [Unchanged.]

(d) If a prosecutor or victim files an application for leave to appeal, the circuit court shall appoint counsel for an indigent prisoner through the Michigan Appellate Assigned Counsel System.

(4) [Unchanged.]

(E)-(J) [Unchanged.]

Staff Comment: The amendment of MCR 7.118 requires counsel to be appointed to an indigent prisoner when an application for leave to appeal a grant of parole is filed by the prosecutor or victim. The right to counsel also would be included on the notice to be provided the prisoner.

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.



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 23, 2020

Clerk