

Order

Michigan Supreme Court
Lansing, Michigan

January 20, 2021

Bridget M. McCormack,
Chief Justice

ADM File No. 2019-47

Amendments of Rules 3.804,
5.140, and 5.404 and
Addition of Rule 3.811 of
the Michigan Court Rules

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh
Elizabeth M. Welch,
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 amendments of Rules 3.804, 5.140, and 5.404 and addition of MCR 3.811 of the Michigan Court Rules are adopted, effective May 1, 2021.

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

Rule 3.804 Consent and Release

(A) [Unchanged.]

(B) Hearing on Consent to Adopt.

(1)-(2) [Unchanged.]

(3) Use of Videoconferencing Technology. Videoconferencing technology may not be used~~Except~~ for a consent hearing under this subrule involving an Indian child pursuant to MCL 712B.13, ~~the court may allow the use of videoconferencing technology under this subchapter in accordance with MCR 2.407.~~

(C)-(D) [Unchanged.]

[New] Rule 3.811 Use of Videoconferencing Technology

Except as otherwise provided, the court may allow the use of videoconferencing technology for proceedings under this subchapter in accordance with MCR 2.407.

Rule 5.140 Use of Videoconferencing Technology

(A)-(C) [Unchanged.]

~~(D)~~ The court may not use videoconferencing technology for a consent hearing required to be held pursuant to the Michigan Indian Family Preservation Act and MCR 5.404(B).

~~(E)~~ [Relettered but otherwise unchanged.]

Rule 5.404 Guardianship of Minor

(A) [Unchanged]

(B) Voluntary Consent to Guardianship of an Indian Child.

A voluntary consent to guardianship of an Indian child must be executed by both parents or the Indian custodian.

(1) Form of Consent. To be valid, the consent must contain the information prescribed by MCL 712B.13(2) and be executed on a form approved by the State Court Administrative Office, in writing, recorded before a judge of a court of competent jurisdiction, and accompanied by the presiding judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent given before, or within 10 days after, the birth of the Indian child is not valid. The court may ~~not~~ use videoconferencing technology for the guardianship consent hearing required to be held under MCL 712B.13(1)~~the Michigan Indian Family Preservation Act~~ and this subrule.

(2)-(3) [Unchanged.]

(C)-(H) [Unchanged.]

Staff comment: The amendments of MCR 3.804, 5.140, and 5.404 and addition of MCR 3.811 allow greater use of videoconferencing equipment in cases involving Indian children.

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.

January 20, 2021

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

Clerk