

From: [Moxley, Harry](#)
To: [ADMcomment](#)
Cc: [Strander, George](#); [Belzer, Louis](#); [Hotchkiss, Robert](#); [Mendez, Janet](#); [Walker, Helen](#)
Subject: Ingham FOC comments regarding Proposed New Rule 3.22X (regarding Friend of the Court ADR)
Date: Wednesday, March 27, 2019 11:52:07 AM
Attachments: [ingham foc comments regarding proposed mcr 3.22x foc adr.docx](#)

Please see attached submission of comments due by April 1, thank you for your consideration.

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FOC Comments regarding Proposed Rule 3.22X – Friend of the Court Alternative Dispute Resolution

- 1) **Page 3 - Section (C):** On post-judgment cases is there a presumption that proper cause/change of circumstances has been established prior to a referral to FOC- ADR? See MCL 722.27(1)(c) and MCL 552.505(g).
- 2) **Page 4 - Section (E)(3)(a):** The proposed rule only gives parties seven days to object to FOC-ADR. This is not realistic in light of mail delivery times. Parties may not even receive the notice until the seven-day objection period has passed.
- 3) **Page 5 – Section (F)(1)(a):** What constitutes "reasonable inquiry" and/or which domestic violence screening protocol is acceptable should be further defined.
- 4) **Page 5 – Section (F)(1)(b):** Suggested modification: "If domestic violence is identified ~~or suspected~~, the conference may not proceed unless the protected party submits a written consent ~~and or~~ the friend of the court takes additional precautions to ensure the safety of court staff and the protected party. Throughout the facilitative and information-gathering conference process, the facilitator must make reasonable efforts to screen domestic violence that would make the conference physically or emotionally unsafe for any participant or that would impede achieving a voluntary and safe resolution of issues." Additionally, what constitutes "additional precautions" should be further defined.
- 5) **Page 6 - Section (F)(2)(a)(i) and (ii):**
 - Requires recommended orders to be submitted within 7-days of the conference which is not realistic. This time constraint will restrict an Investigator from conducting a thorough investigation and/or writing a thorough report.
 - Allows for a 21-day instead of 14-day objection period on immediate effect/ex parte orders. This will prolong the process for parties, and seems to conflict with MCR 3.207, which requires a 14-day objection period on ex parte orders.
 - Requires that a hearing be held within 21-days if an objection is filed which is not realistic given current caseloads and other scheduling issues.
- 6) **Page 8 – Section (H)(1)(a):** What constitutes "reasonable inquiry" and/or which domestic violence screening protocol is acceptable should be further defined.
- 7) **Page 8 - Section (H)(1)(b):** Suggested modification: "If domestic violence is identified ~~or suspected~~, the conference may not proceed unless the protected party submits a written consent ~~and or~~ the friend of the court takes additional precautions to ensure the safety of court staff and the protected party. Throughout the facilitative and information-gathering conference process, the facilitator must make reasonable efforts to screen domestic violence that would make the conference physically or emotionally unsafe for any participant or that would impede achieving a voluntary and safe resolution of issues." Additionally, what constitutes "additional precautions" should be further defined.
- 8) **Page 9 – Section (H)(1)(d) -** Requires recommended orders to be submitted within 7-days of the joint meeting which is not realistic.
- 9) **Page 9 – Section H(d)(1)(ii) –** Suggested modification: eliminate the last two sentences. See (10) below.
- 10) **Page 9 - Section (H)(1)(e)(iii) -** This section of the proposed rule should be eliminated altogether. If parties agree during the joint meeting they can sign a stipulation. If one or both parties agree with the recommendation after it is submitted, they can simply choose not to object.