



July 30, 2019

p 517-346-6300

p 800-968-1442

f 517-482-6248

www.michbar.org

Larry Royster  
Clerk of the Court  
Michigan Supreme Court  
P.O. Box 30052  
Lansing, MI 48909

306 Townsend Street

Michael Franck Building

Lansing, MI

48933-2012

**RE:** ADM File No. 2018-16: Proposed Amendments of Rule 3.201 and Proposed Addition of 3.230 of the Michigan Court Rules

Dear Clerk Royster:

At its July 26, 2019 meeting, the State Bar of Michigan Board of Commissioners (Board) considered the above-referenced rule amendment and proposed new rule published by the Court for comment. As part of its review, the Board considered recommendations from the Access to Justice Policy Committee and Family Law Section.

After this review, the Board voted to support the rule proposal with the following amendments to address domestic violence concerns raised by the Access to Justice Policy Committee.

### **1. Add Domestic Violence Screening Requirements**

Because the Summary Support and Paternity Act provides for an expedited process with limited court involvement, adequate safeguards must be in place to screen for domestic violence. As currently proposed, the process does not require any domestic violence screening and permits the court to enter a consent order without a hearing, creating the possibility that an abuser may attempt to coerce the abused parent into signing a consent order. To address this concern, the Board recommends that MCR 3.230(H) require (1) at the commencement of the proceeding that both parties complete a domestic violence screening tool to be submitted to be filed with the court, and (2) that the court hold a hearing if domestic violence is indicated.

### **2. Require Agency to Inform Parties of Right to Opt Out of Process**

Under the Summary Support and Paternity Act, parties have the right to opt out of their obligation to cooperate with establishing paternity or support as a condition of receiving benefits. One basis to opt out is domestic violence. The IV-D agency should be required to inform the parties of the circumstances in which they can opt out and file a waiver with

the court signed by the parties indicating that they were informed of their right to opt out of the process.

### 3. Recommended Changes to Proposed MCR 3.230

To address these two concerns, MCR 3.230 should be amended as follows (added language shown in bold and underline and deletions shown in strikethrough):

[NEW] Rule 3.230 Actions Under the Summary Support and Paternity Act

(A) [No change.]

(B)(1) [No change.]

(2) **A IV-D agency shall also file a waiver signed by the parent receiving benefits for the child that the parent was advised of his/her obligation to comply with all requests for action and information and the right to submit a claim of good cause for not cooperating and that the parent has been advised of the process for submitting a good-cause claim.**

[Subsections 2-6 renumbered to 3-7, otherwise no changes.]

~~(7)~~(8) Request to Enter Consent Agreement. A request for entry of a consent judgment or order to initiate an expedited paternity or expedited support action shall:

(a) state the following:

- (i) the name and address of the court;
- (ii) the names and addresses of the parties;
- (iii) the name, address, and phone number of the IV-D agency filing the action; and
- (iv) the name and address of any attorney appearing in the matter.

(b) contain the grounds for jurisdiction, the statutory grounds to enter the judgment or order, and a request for entry of the judgment or order without further notice; and

(c) be accompanied by domestic violence screening forms. The domestic violence screening form shall be limited to reporting personal protection actions, domestic violence criminal actions, and child protective actions involving the parties and shall be on a form approved by the State Court Administrative Office. Each party must complete a separate form; and ~~(e)~~

(d) be signed by the parties and the IV-D agency.

[No changes to sections (C)-(G).]

(H) Judgements and Orders.

(1) [No change.]

(2) Entering Orders. The court may enter a proposed judgment or order submitted by the IV-D agency without hearing if the court is satisfied of all of the following:

- (a) that the parties were given proper notice and opportunity to file a response,
- (b) the statutory and rule requirements were met, ~~and~~
- (c) the terms of the judgment or order are in accordance with the law, and.

(d) Neither domestic violence screening forms identify domestic violence between the parties.

(3) The IV-D agency seeking entry of a proposed judgment or order must schedule a hearing and serve the motion, notice of hearing, and a copy of the proposed judgment or orders upon the parties at least 14 days before the hearing, and promptly file a proof of service when:

- (a) the proposed judgment involves a request for relief that is different from the relief requested in the complaint; ~~or~~
- (b) the IV-D agency does not have sufficient facts to complete the judgment or order without a judicial determination of the relief to which the party is entitled; ~~or~~

(c) a domestic violence screening form identifies domestic violence between the parties.

We thank the Court for the opportunity to convey the Board's position on this rule proposal.

Sincerely,



Janet K. Welch  
Executive Director

cc: Anne Boomer, Administrative Counsel, Michigan Supreme Court  
Jennifer M. Grieco, President, State Bar of Michigan