



Michigan District Judges Association

August 29, 2019

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Dear Ms. Boomer:

As president of the Michigan District Judges Association, I am submitting the following in response to ADM 2018-30 proposing amendments to MCR 8.115. It appears that the proposed amendments are an attempt to establish a consistent policy that provides court users with the convenience and assistance of the use of a portable electronic device while maintaining court control over the orderly administration of court business.

To say that the changes within the proposed amendments have prompted extensive and wide-ranging discussions among the district judges would be an understatement. As the district court deals with the highest volume of cases statewide, the issue is particularly significant to the MDJA members. Given the nature and variety of the responses, it is clear that consensus on this topic is difficult. The goal of acknowledging by rule change the evolution of our digital society and the reliance many of us have on digital devices is a worthy one. The balancing of that evolution with the need and duty to maintain court decorum, the court record, and security for employees, litigants, victims and visitors to the courts across this state is where the MDJA has focused our evaluation.

Therefore, we begin our commentary by stating that the MDJA's objection to the proposed changes is primarily one of logistics and enforcement. How can one effectively monitor whether a person has turned their cellular telephone off? How can one effectively check to see if a person in the courtroom is surreptitiously recording part of a proceeding? Or photographing a witness or juror? What would stop a person who had done so from manipulating the video

thereafter and presenting a distorted record to the world? These are only some of the various concerns expressed in the many responses to the MDJA's internal request for input.

The MDJA believes very strongly in the bedrock Constitutional principles that make courts open to the public as well as Michigan Supreme Court's leadership in making courts across the state more and more "user friendly", accessible, and transparent. The public should be able to see and hear everything that goes on in their courtrooms; however, a valid record can only be maintained in the courtroom with the court's equipment. Allowing the recording and transfer of partial video or audio that can be manipulated is antithetical to those principles. Furthermore, the potential for disruption or interruption of the proceedings is fairly high which impacts effective facilitation of court business.

It is also readily apparent that the reason there are so many different policies and procedures in LAO's across the state is that the needs and challenges of the various communities we serve make a uniform rule cumbersome for some, ineffectual for others, and practically unenforceable for all.

Therefore, it is the position of the MDJA that the issue of use of electronic devices in courthouses, courtrooms, and their prohibition in certain areas be left to the various local jurisdictions to facilitate through approved LAO's. We would support a requirement that courts which choose not to allow cellular phones in courtrooms under any circumstances be required to provide a place where citizens can safely secure their phones while they are in the courthouse.

Sincerely,

Hon. Beth Gibson
President, MDJA