

Order

Michigan Supreme Court
Lansing, Michigan

May 15, 2019

Bridget M. McCormack,
Chief Justice

ADM File No. 2002-37

David F. Viviano,
Chief Justice Pro Tem

Proposed Amendments of Rules 1.109,
2.107, 2.113, 2.116, 2.119, 2.222, 2.223,
2.225, 2.227, 3.206, 3.211, 3.212, 3.214,
3.303, 3.903, 3.921, 3.925, 3.926, 3.931,
3.933, 3.942, 3.950, 3.961, 3.971, 3.972,
4.002, 4.101, 4.201, 4.202, 4.302, 5.128,
5.302, 5.731, 6.101, 6.615, 8.105, and 8.119
and Proposed Rescission of Rules 2.226 and
8.125 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, this is to advise that the Court is considering amendments of Rules 1.109, 2.107, 2.113, 2.116, 2.119, 2.222, 2.223, 2.225, 2.227, 3.206, 3.211, 3.212, 3.214, 3.303, 3.903, 3.921, 3.925, 3.926, 3.931, 3.933, 3.942, 3.950, 3.961, 3.971, 3.972, 4.002, 4.101, 4.201, 4.202, 4.302, 5.128, 5.302, 5.731, 6.101, 6.615, 8.105, and 8.119 and a proposed rescission of Rules 2.226 and 8.125 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at [Administrative Matters & Court Rules page](#).

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

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

Rule 1.109 Court Records Defined; Document Defined; Filing Standards; Signatures;
Electronic Filing and Service; Access

(A)-(C) [Unchanged.]

(D) Filing Standards.

(1) Form and Captions of Documents.

- (a) All documents prepared for filing in the courts of this state and all documents prepared by the court for placement in a case file must be legible and in the English language, comply with standards established by the State Court Administrative Office, and be on good quality 8½ by 11 inch paper or transmitted through an approved electronic means and maintained as a digital image. ~~The print must be no smaller than 10 characters per inch (nonproportional) or 12-point (proportional)~~ font size must be 12 or 13 point for body text and no less than 10 point for footnotes, except with regard to forms approved by the State Court Administrative Office. Transcripts filed with the court must contain only a single transcript page per document page, not multiple pages combined on a single document page.

(b)-(g) [Unchanged.]

(2)-(8) [Unchanged.]

(E)-(G) [Unchanged.]

Rule 2.107 Service and Filing of Pleadings and Other Documents

(A)-(C) [Unchanged.]

- (D) Proof of Service. Except as otherwise provided by MCR 2.104, 2.105, or 2.106, proof of service of documents required or permitted to be served ~~may~~must be by written acknowledgment of service, or a written statement by the individual who served the documents verified under MCR 1.109(D)(3). The proof of service may be included at the end of the document as filed. Proof of service must be filed promptly and at least at or before a hearing to which the document relates.

(E)-(F) [Unchanged.]

Rule 2.113 Form, Captioning, Signing, and Verifying of Documents

- (A) Applicability. The form, captioning, signing, and verifying of all documents are prescribed in MCR 1.109(D) and (E).

(B) [Unchanged.]

(C) ~~Exhibits;~~ Written Instruments.

- (1) If a claim or defense is based on a written instrument, a copy of the instrument or its pertinent parts must be attached to the pleading ~~as an~~

exhibit and labeled according to standards established by the State Court Administrative Office unless the instrument is

(a)-(d) [Unchanged.]

- (2) An exhibit attached or referred attachment or reference to an attachment under subrule (FC)(1)(a) or (b) is a part of the pleading for all purposes.

(D) [Unchanged.]

Rule 2.116 Summary Disposition

(A)-(F) [Unchanged.]

(G) Affidavits; Hearing.

- (1) Except as otherwise provided in this subrule, MCR 2.119 applies to motions brought under this rule.

(a)-(b) [Unchanged.]

- (c) Except where electronic filing has been implemented, a copy of a motion, response (including brief and any affidavits), or reply brief filed under this rule must be provided by counsel to the office of the judge hearing the motion. The judge's copy must be clearly marked JUDGE'S COPY on the cover sheet; that notation may be handwritten. Where electronic filing has been implemented, a judge's copy may not be required.

(2)-(6) [Unchanged.]

(H)-(J) [Unchanged.]

Rule 2.119 Motion Practice

(A) Form of Motions.

(1) [Unchanged.]

- (2) A motion or response to a motion that presents an issue of law must be accompanied by a brief citing the authority on which it is based, and must comply with the provisions of MCR 7.215(C) regarding citation of unpublished Court of Appeals opinions.

(a)-(c) [Unchanged.]

(d) Except where electronic filing has been implemented, a copy of a motion or response (including brief) filed under this rule must be provided by counsel to the office of the judge hearing the motion. The judge's copy must be clearly marked JUDGE'S COPY on the cover sheet; that notation may be handwritten. Where electronic filing has been implemented, a judge's copy may not be required.

(B)-(G) [Unchanged.]

Rule 2.222 Change of Venue; Venue Proper

(A)-(C) [Unchanged.]

(D) Order for Change of Venue; Case Records.

(1) The transferring court must enter all necessary orders pertaining to the certification and transfer of the action to the receiving court. The court must order the party that moved for change of venue to pay the applicable statutory filing fee to the receiving court.

(2) The transferring court must serve the order on the parties and send a copy to the receiving court. The clerk of the transferring court must prepare the case records for transfer in accordance with the orders entered under subrule (1) and the Michigan Trial Court Records Management Standards and send them to the receiving court by a secure method.

(3) The receiving court must temporarily suspend payment of the filing fee and open a case pending payment of the filing fee as ordered by the transferring court. The receiving court must notify the party that moved for change of venue of the new case number in the receiving court, the amount due, and the due date.

~~(DE) Payment of Filing and Jury Fees After Change of Venue.~~

~~(1) At or before the time the order changing venue is entered, t~~The party that moved for change of venue ~~shall tender a negotiable instrument in the amount of the applicable filing fee, payable to the court to which the case is to be transferred. The transferring court shall send the negotiable instrument with the case documents to the transferee court~~must pay to the receiving court within 28 days of the date of the transfer order the applicable filing fee as

ordered by the transferring court. No further action may be had in the case until payment is made. If the fee is not paid to the receiving court within 28 days of the date of the order, the receiving court must order the case transferred back to the transferring court.

- (2) ~~If the~~ jury fee has been paid, the clerk of the transferring court ~~shall~~ must forward it to the clerk of the receiving court to which the action is transferred as soon as possible after the case records have been transferred.
- ~~(E) In tort actions filed between October 1, 1986, and March 28, 1996, if venue is changed because of hardship or inconvenience, the action may be transferred only to the county in which the moving party resides.~~

Rule 2.223 Change of Venue; Venue Improper

(A) [Unchanged.]

(B) Order for Change of Venue; Case Records.

(1) The transferring court must enter all necessary orders pertaining to the certification and transfer of the action to the receiving court. The court must order the plaintiff to pay the applicable statutory filing fee directly to the receiving court. The court may also order the plaintiff to pay reasonable compensation and attorney fees to the defendant if the case was filed in the wrong court.

(2) The transferring court must serve the order on the parties and send a copy to the receiving court. The clerk of the transferring court must prepare the case records for transfer in accordance with the orders entered under subrule (1) and the Michigan Trial Court Records Management Standards and send them to the receiving court by a secure method.

(3) The receiving court shall temporarily suspend payment of the filing fee and open a case pending payment of the filing fee and costs as ordered by the transferring court. The receiving court must notify the plaintiff of the new case number in the receiving court, the amount due, and the due date.

~~(B)~~ Costs; Fees Payment of Filing and Jury Fees After Change of Venue.

(1) ~~The court shall order the change at the plaintiff's cost, which shall include the statutory filing fee applicable to the court to which the action is transferred, and which may include reasonable compensation for the~~

~~defendant's expense, including reasonable attorney fees, in attending in the wrong court.~~

- (2) The plaintiff must pay to the receiving court within 28 days of the date of the transfer order the applicable filing fee, costs, and expenses as ordered by the transferring court or the receiving court will dismiss the action. After transfer, n~~No further proceedings may be had in the action until the costs and expenses allowed under this rule~~payment has been made~~have been paid.~~If they are not paid within 56 days from the date of the order changing venue, the action must be dismissed by the court to which it was transferred.
- (23) ~~If the~~a jury fee has been paid, the clerk of the transferring court ~~shall~~must forward it to the clerk of the receiving court as soon as possible after the case records have been~~to which the action is transferred.~~
- (34) [Renumbered by otherwise unchanged.]

Rule 2.225 Joinder of Party to Control Venue

- (A) [Unchanged.]
- (B) Order for Change of Venue; Case Records.
- (1) The transferring court must enter all necessary orders pertaining to the certification and transfer of the action to the receiving court. The court must order the plaintiff to pay the applicable statutory filing fee directly to the receiving court. The court may also order the plaintiff to pay reasonable compensation and attorney fees to the defendant when necessary to accomplish the transfer.
- (2) The transferring court must serve the order on the parties and send a copy to the receiving court. The clerk of the court must prepare the case records for transfer in accordance with the orders entered under subrule (1) and the Michigan Trial Court Records Management Standards and send them to the receiving court by a secure method.
- (3) The receiving court shall temporarily suspend payment of the filing fee and open a case pending payment of the filing fee and costs as ordered by the transferring court. The receiving court must notify the plaintiff of the new case number in the receiving court, the amount due, and the due date.
- (BC) ~~Payment of Filing and Jury Fees After Transfer-Costs.—A transfer under this rule must be made at the plaintiff's cost, which shall include the statutory filing fee~~

~~applicable to the court to which the action is transferred, and which may include reasonable compensation for the defendant's expense, including reasonable attorney fees, necessary to accomplish the transfer.~~

- (1) The plaintiff must pay to the receiving court within 28 days of the date of the transfer order the applicable filing fee and any expenses or attorney fees as ordered by the transferring court or the receiving court will dismiss the action.
 - (2) If a jury fee has been paid, the clerk of the transferring court must forward it to the clerk of the receiving court as soon as possible after the case records have been transferred.
- (C) ~~Jury Fee. If the jury fee has been paid, the clerk of the transferring court shall forward it to the clerk of the court to which the action is transferred.~~

~~Rule 2.226 Change of Venue; Orders~~

~~The court ordering a change of venue shall enter all necessary orders pertaining to the certification and transfer of the action to the court to which the action is transferred.~~

Rule 2.227 Transfer of Actions on Finding of Lack of Jurisdiction

- (A) Transfer to Court Which Has Jurisdiction.
 - (1) When the court in which a civil action is pending determines that it lacks jurisdiction of the subject matter of the action, but that some other Michigan court would have jurisdiction of the action, the court may order the action transferred to the other court in a place where venue would be proper. If the question of jurisdiction is raised by the court on its own initiative, the action may not be transferred until the parties are given notice and an opportunity to be heard on the jurisdictional issue.
 - (2) ~~As a condition of transfer, the court shall require the plaintiff to pay the statutory filing fee applicable to the court to which the action is to be transferred, and to pay reasonable compensation for the defendant's expense, including reasonable attorney fees, in attending in the wrong court.~~
 - (3) ~~If the plaintiff does not pay the filing fee to the clerk of the court transferring the action and submit proof to the clerk of the payment of any other costs imposed within 28 days after entry of the order of transfer, the clerk shall notify the judge who entered the order, and the judge shall dismiss the action~~

~~for lack of jurisdiction. The clerk shall notify the parties of the entry of the dismissal.~~

- (4) ~~After the plaintiff pays the fee and costs, the clerk of the court transferring the action shall promptly forward to the clerk of the court to which the action is transferred the original papers filed in the action and the filing fee and shall send written notice of this action to the parties. If part of the action remains pending in the transferring court, certified copies of the papers filed may be forwarded, with the cost to be paid by the plaintiff.~~

(B) Order Transferring Jurisdiction; Case Records.

- (1) The transferring court must enter all necessary orders pertaining to the certification and transfer of the action to the receiving court. The court must order the plaintiff to pay the applicable statutory filing fee directly to the receiving court. The court may also order the plaintiff to pay reasonable compensation and attorney fees to the defendant for filing the case in the wrong court.
- (2) The transferring court must serve the order on the parties and send a copy to the receiving court. The clerk of the court must prepare the case records for transfer in accordance with the orders entered under subrule (1) and the Michigan Trial Court Records Management Standards and send them to the receiving court by a secure method.
- (3) The receiving court shall temporarily suspend payment of the filing fee and open a case pending payment of the filing fee and costs as ordered by the transferring court. The receiving court must notify the plaintiff of the new case number in the receiving court, the amount due, and the due date.

(C) Payment of Filing and Jury Fees After Transfer.

- (1) The plaintiff must pay to the receiving court within 28 days of the date of the transfer order the applicable filing fee and must submit proof of the payment of any expenses as ordered by the transferring court or the receiving court will dismiss the action.
- (2) If a jury fee has been paid, the clerk of the transferring court must forward it to the clerk of the receiving court as soon as possible after the case records have been transferred.

(BD) Procedure After Transfer.

- (1) The action proceeds in the receiving court ~~to which it is transferred~~ as if it had been originally filed there. If further pleadings are required or allowed, the time for filing them runs from the date the ~~clerk sends notice that the file has been forwarded under subrule (A)(4)~~ filing fee is paid under subrule (C)(1). The receiving court ~~to which the action is transferred~~ may order the filing of new or amended pleadings. If part of the action remains pending in the transferring court, certified copies of the papers filed may be forwarded, with the cost to be paid by the plaintiff.
- (2) If a defendant had not been served with process at the time the action was transferred, the plaintiff must obtain the issuance of a new summons ~~by~~ from the receiving court ~~to which the action is transferred~~.
- (3) A waiver of jury trial in the court in which the action was originally filed is ineffective after transfer. A party who had waived trial by jury may demand a jury trial after transfer by filing a demand and paying the applicable jury fee within 28 days after the ~~clerk sends the notice that the file has been forwarded under subrule (A)(4)~~ filing fee is paid under subrule (C)(1). A demand for a jury trial in the court in which the action was originally filed is preserved after transfer. ~~If the jury fee had been paid, the clerk shall forward it with the file to the clerk of the court to which the action is transferred.~~

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

Rule 3.206 Initiating a Case

(A) Information in Case Initiating Document.

- (1) The form, captioning, signing, and verifying of documents are prescribed in MCR 1.109(D) and (E).

(2)-(6) [Unchanged.]

(B) [Unchanged.]

(C) Verified Statement.

- (1) In an action involving a minor, or if child support or spousal support is requested, the party seeking relief must provide to the friend of the court ~~attach~~ a verified statement containing, at a minimum, personal identifying, financial, and health care coverage information of the parties and minor children. A copy of the verified statement must ~~be to the copies of the papers served on the other party and provided to the friend of the~~

~~court. The verified statement must be completed on a form approved by the State Court Administrative Office., stating~~

- ~~(a) the last known telephone number, post office address, residence address, and business address of each party;~~
 - ~~(b) the social security number and occupation of each party;~~
 - ~~(c) the name and address of each party's employer;~~
 - ~~(d) the estimated weekly gross income of each party;~~
 - ~~(e) the driver's license number and physical description of each party, including eye color, hair color, height, weight, race, gender, and identifying marks;~~
 - ~~(f) any other names by which the parties are or have been known;~~
 - ~~(g) the name, age, birth date, social security number, and residence address of each minor involved in the action, as well as of any other minor child of either party;~~
 - ~~(h) the name and address of any person, other than the parties, who may have custody of a minor during the pendency of the action;~~
 - ~~(i) the kind of public assistance, if any, that has been applied for or is being received by either party or on behalf of a minor, and the AFDC and recipient identification numbers; if public assistance has not been requested or received, that fact must be stated; and~~
 - ~~(j) the health care coverage, if any, that is available for each minor child; the name of the policyholder; the name of the insurance company, health care organization, or health maintenance organization; and the policy, certificate, or contract number.~~
- (2) The information in the verified statement is confidential, and is not to be released other than to the court, the parties, or the attorneys for the parties, except on court order. For good cause, the addresses of a party and minors may be omitted from the copy of the statement that is served on the other party. If the party submitting the verified statement excludes an address for good cause, that party shall provide an alternate address where mail can be received.

- (3) If any of the information required to be in the verified statement is omitted, the party seeking relief must explain the omission in the verified statement or in a separate statement, verified under MCR 1.109(D)(3)(b)a sworn affidavit, to be filed with the court.
- (4) When the action is to establish paternity or child support and the pleadings are generated from Michigan's automated child support enforcement system, the party is not required to comply with subrule (C)(1). However, the party may comply with subrule (C)(1) to provide the other party an opportunity to supply any omissions or correct any inaccuracies.

(D) [Unchanged.]

Rule 3.211 Judgments and Orders

(A)-(E) [Unchanged.]

(F) Entry of Judgment or Order

- (1) [Unchanged.]
- (2) The party submitting the first temporary order awarding child custody, parenting time, or support and the party submitting any final proposed judgment awarding child custody, parenting time, or support must:
- (a) serve the friend of the court office and, unless the court orders otherwise, all other parties, with a completed copy of the latest version of the state court administrative office's Domestic Relations Judgment Information Form, and
 - (b) file a proof of service with the court certifying that the Domestic Relations Judgment Information Form has been provided to the friend of the court office and, unless the court orders otherwise, to all other parties.
- (3) If the court modifies the proposed judgment or order before signing it, the party submitting the judgment or order must, within 7 days, submit a new Domestic Relations Judgment Information Form to the friend of the court if any of the information previously submitted changes as a result of the modification.
- (4) Before it signs a judgment or order awarding child support or spousal support, the court must determine that:

- (a) the party submitting the judgment or order has certified that the Domestic Relations Judgment Information Form in subrule (F)(2) has been submitted to the friend of the court, and
 - (b) [Unchanged.]
- (5) The Domestic Relations Judgment Information Form must be ~~filed~~ submitted to the friend of the court in addition to the verified statement that is required by MCR 1-109(D)(3)3.206(C).

(G)-(H) [Unchanged.]

Rule 3.212 Postjudgment Transfer of Domestic Relations Cases

(A)-(C) [Unchanged.]

(D) Transfer-Order for Transfer; Case Records.

- (1) ~~The transferring court ordering a postjudgment transfer must enter all necessary orders pertaining to the certification and postjudgment transfer of the action to the receiving court. The transferring court must send to the receiving court all court files and friend of the court files, ledgers, records, and documents that pertain to the action. Such materials may be used in the receiving jurisdiction in the same manner as in the transferring jurisdiction.~~
 - (a) The court may not enter an order transferring until all pending matters in the case have been resolved.
 - (b) The court must order the party who moved for the transfer to pay the applicable statutory filing fee directly to the receiving court unless fees have been waived in accordance with MCR 2.002.
 - (c) If the parties stipulate to the transfer of a case, they must share equally the cost of transfer unless the court orders otherwise.
 - (d) The court may also order one or both of the parties or the court-ordered custodian to pay past-due fees and costs under subrule (D)(4). Until all filing fees and court-ordered past-due fees and costs are paid, no further action in the case shall occur in the transferring court unless the moving party first demonstrates good cause and that substantial harm will occur absent the transferring court's immediate consideration.

- (e) If the court or the friend of the court initiates the transfer, the statutory filing fee is waived.
- (2) Except as otherwise ordered under subrule (D)(4), the transferring court must serve the order on the parties and send a copy to the receiving court. The clerk of the court and the friend of the court each must prepare the court's case records and the friend of the court's case records for transfer in accordance with the orders entered under subrule (1) and the Michigan Trial Court Records Management Standards and send them to the receiving court by a secure method.
- (3) The receiving court shall temporarily suspend payment of the filing fee and open a case pending payment of the filing fee as ordered by the transferring court. The receiving court must notify the party of the new case number in the receiving court, the amount due, and the due date.
- (24) The court may order that any past-due fees and costs be paid to the transferring friend of the court office at the time of transfer. If the court orders payment of past-due fees and costs, the order must state that the court will not send the order to the receiving court under subrule (1) and the records will not be transferred under subrule (2) until the past-due fees and costs are paid. If the past-due fees and costs are not paid within 28 days of entry, the transfer order becomes void.
- (3) The court may order that one or both of the parties or court-ordered custodian pay the cost of the transfer.
- (E) Payment of Filing Fee After Transfer. An order transferring a case under this rule must provide that the party who moved for the transfer pay the statutory filing fee applicable to the court to which the action is transferred, except where MCR 2.002 applies. If the parties stipulate to the transfer of a case, they must share equally the cost of transfer unless the court orders otherwise. In either event, the transferring court must submit the filing fee to the court to which the action is transferred, at the time of transfer. If the court or the friend of the court initiates the transfer, the statutory filing fee is waived. The party that moved for transfer must pay to the receiving court within 28 days of the due date provided under subrule (D)(3) the applicable filing fee as ordered by the transferring court. No further action in the case shall occur in the receiving court until the filing fee is paid unless the moving party first demonstrates good cause and that substantial harm will occur absent the receiving court's immediate consideration. If the fee is not paid to the receiving court within 28 days of the due date, the receiving court must order the case transferred back to the transferring court.

~~(F) Physical Transfer of Files. Court and friend of the court files must be transferred by registered or certified mail, return receipt requested or by another a secure method of transfer.~~

(GE) [Relettered but otherwise unchanged.]

Rule 3.214 Action Under Uniform Acts

(A) [Unchanged.]

(B) RURESA Actions.

(1) [Unchanged.]

(2) Transfer; Initiating and Responding RURESA Cases.

(a)-(b) [Unchanged.]

(c) A court ordering a transfer must send to the court that issued the prior valid support order all pertinent ~~papers, including all court files and friend of the court files, ledgers, records, and documents.~~ The clerk of the court and the friend of the court office must prepare the court and friend of the court records for transfer in accordance with the transfer order and the Michigan Trial Court Records Management Standards. The records must be sent to the court that issued the prior valid support order by a secure method within one business day of the date of the transfer order.

~~(d) Court files and friend of the court files must be transferred by registered or certified mail, return receipt requested or by other a secure method.~~

(ed) [Relettered but otherwise unchanged.]

(C)-(D) [Unchanged.]

Rule 3.303 Habeas Corpus to Inquire into Cause of Detention

(A)-(M) [Unchanged.]

(N) Answer.

(1) [Unchanged.]

(2) ~~Exhibits~~Attachments. If the prisoner is detained because of a writ, warrant, or other written authority, a copy must be attached to the answer ~~as an exhibit~~, and the original must be produced at the hearing. If an order under subrule (E) requires it, the answer must be accompanied by the certified transcript of the record and proceedings.

(3) [Unchanged.]

(O)-(Q) [Unchanged.]

Rule 3.903 Definitions

(A) General Definitions. When used in this subchapter, unless the context otherwise indicates:

(1)-(20) [Unchanged.]

(21) “Petition authorized to be filed” refers to written permission given by the court to file ~~the petition containing the formal allegations against the juvenile or respondent with the clerk of the court~~the petition among the court’s public records as permitted by MCR 3.925. Until a petition is authorized, it must be filed with the clerk and maintained as a nonpublic record, accessible only by the court and parties. After authorization, a petition and any associated records may be made nonpublic only as permitted by rule or statute.

(22)-(27) [Unchanged.]

(B) [Unchanged.]

(C) Child Protective Proceedings. When used in child protective proceedings, unless the context otherwise indicates:

(1) [Unchanged.]

(2) “Amended petition” means a petition filed to correct or add information to an original petition as defined in subrule (A)(21), ~~after it has been authorized,~~ ~~but~~ before it is adjudicated.

(3)-(13) [Unchanged.]

(D)-(F) [Unchanged.]

Rule 3.921 Persons Entitled to Notice

(A) Delinquency Proceedings.

- (1) General. In a delinquency proceeding, the court ~~shall direct that~~must notify the following persons ~~be notified~~ of each hearing except as provided in subrule (A)(3):

(a)-(g) [Unchanged.]

(2)-(3) [Unchanged.]

(B)-(E) [Unchanged.]

Rule 3.925 Open Proceedings; Judgments and Orders; Records Confidentiality; Destruction of Court Records; Setting Aside Adjudications

(A)-(B) [Unchanged.]

- (C) Judgments and Orders. The form and signing of judgments are governed by MCR 2.602(A)(1) and (2). Judgments and orders may be served on a person by first-class mail to the person's last known address, by e-mail under MCR 2.107(C)(4), or electronic service under MCR 1.109(G)(6)(a).

(D) Public Access to Case File Records; Confidential File.

- (1) General. Except as otherwise required by MCR 3.903(A)(21), cCase file records maintained under Chapter XIIA of the Probate Code, MCL 712A.1 *et seq.*, other than confidential files, must be open to the general public.

(2) [Unchanged.]

(E)-(G) [Unchanged.]

Rule 3.926 Transfer of Jurisdiction; Change of Venue

(A) [Unchanged.]

- (B) Transfer to County of Residence. When a minor is brought before the family division of the circuit court in a county other than that in which the minor resides, the court may request transfer of the case to the court in the county of residence

before trial. The court shall not order transfer of the case until the court to which the case is to be transferred has granted the request to accept the transfer.

(1)-(3) [Unchanged.]

(C)-(E) [Unchanged.]

(F) ~~Transfer of Records.—The court entering an order of transfer or change of venue shall send the original pleadings and documents, or certified copies of the pleadings and documents, to the receiving court without charge.~~

(1) The transferring court must enter all necessary orders pertaining to the certification and transfer of the action to the receiving court. Where the courts have agreed to bifurcate the proceedings, the court adjudicating the case shall send any supplemented pleadings and other records or certified copies of the supplemented pleadings and records to the court entering the disposition in the case.

(2) The clerk of the court must prepare the case records for transfer in accordance with the orders entered under subrule (1) and the Michigan Trial Court Records Management Standards and send them to the receiving court by a secure method.

(G) [Unchanged.]

Rule 3.931 Initiating Delinquency Proceedings

(A) Commencement of Proceeding. Any request for court action against a juvenile must be by written petition. The form, captioning, signing, and verifying of documents are prescribed in MCR 1.109(D) and (E). When any pending or resolved family division case exists that involves family members of the person(s) named in the petition filed under subrule (B), the petitioner must attach to the petition a completed case inventory listing those cases, if known. The case inventory must be on a form approved by the State Court Administrative Office.

(B) [Unchanged.]

(C) Citation or Appearance Ticket.

(1) A citation or appearance ticket may be used to initiate a delinquency proceeding if the charges against the juvenile are limited to:

- (a) violations of the Michigan Vehicle Code, or of a provision of an ordinance substantially corresponding to any provision of that law, as provided by MCL 712A.2b.
- (b) ~~offenses that, if committed by an adult, would be appropriate for use of an appearance ticket under MCL 764.9e.~~

(2) [Unchanged.]

(D) [Unchanged.]

Rule 3.933 Acquiring Physical Control of Juvenile

(A) Custody Without Court Order. When an officer apprehends a juvenile for an offense without a court order and does not warn and release the juvenile, does not refer the juvenile to a diversion program, and does not have authorization from the prosecuting attorney to file a complaint and warrant charging the juvenile with an offense as though an adult pursuant to MCL 764.1f, the officer may:

(1)-(2) [Unchanged.]

(3) take the juvenile into custody and request the prosecutor to file~~submit~~ a petition, if:

(a)-(b) [Unchanged.]

(B)-(D) [Unchanged.]

Rule 3.942 Trial

(A) Time. In all cases the trial must be held within 6 months after the ~~filing~~authorization of the petition, unless adjourned for good cause. If the juvenile is detained, the trial has not started within 63 days after the juvenile is taken into custody, and the delay in starting the trial is not attributable to the defense, the court ~~shall forthwith~~must immediately order the juvenile released pending trial without requiring that bail be posted, unless the juvenile is being detained on another matter.

(B)-(D) [Unchanged.]

Rule 3.950 Waiver of Jurisdiction

(A)-(C) [Unchanged.]

- (D) Hearing Procedure. The waiver hearing consists of two phases. Notice of the date, time, and place of the hearings may be given either on the record directly to the juvenile or to the attorney for the juvenile, the prosecuting attorney, and all other parties, or in writing, served on each individual.
- (1) First Phase. The first-phase hearing is to determine whether there is probable cause to believe that an offense has been committed that if committed by an adult would be a felony, and that there is probable cause to believe that the juvenile who is 14 years of age or older committed the offense.
- (a) The probable cause hearing ~~shall~~must be commenced within 28 days after the ~~filing~~filing authorization of the petition unless adjourned for good cause.
- (b)-(c) [Unchanged.]
- (2) Second Phase. If the court finds the requisite probable cause at the first-phase hearing, or if there is no hearing pursuant to subrule (D)(1)(c), the second-phase hearing shall be held to determine whether the interests of the juvenile and the public would best be served by granting the motion. However, if the juvenile has been previously subject to the general criminal jurisdiction of the circuit court under MCL 712A.4 or 600.606, the court shall waive jurisdiction of the juvenile to the court of general criminal jurisdiction without holding the second-phase hearing.
- (a) The second-phase hearing ~~shall~~must be commenced within 28 days after the conclusion of the first phase, or within 35 days after the ~~filing~~filing authorization of the petition if there was no hearing ~~pursuant to~~under subrule (D)(1)(c), unless adjourned for good cause.
- (b)-(e) [Unchanged.]

(E)-(G) [Unchanged.]

Rule 3.961 Initiating Child Protective Proceedings

- (A) Form. Absent exigent circumstances, a request for court action to protect a child must be in the form of a petition. The form, captioning, signing, and verifying of documents are prescribed in MCR 1.109(D) and (E). When any pending or resolved family division case exists that involves family members of the person(s) named in the petition filed under subrule (B), the petitioner must attach to the petition a completed case inventory listing those cases, if known. The case inventory must be on a form approved by the State Court Administrative Office.

(B)-(C) [Unchanged.]

Rule 3.971 Pleas of Admission or No Contest

(A) General. A respondent may make a plea of admission or of no contest to the original allegations in the petition. The court has discretion to allow a respondent to enter a plea of admission or a plea of no contest to an amended petition. The plea may be taken at any time after the ~~file~~ing authorization of the petition, provided that the petitioner and the attorney for the child have been notified of a plea offer to an amended petition and have been given the opportunity to object before the plea is accepted.

(B)-(C) [Unchanged.]

Rule 3.972 Trial

(A) Time. If the child is not in placement, the trial must be held within 6 months after the ~~file~~ing authorization of the petition unless adjourned for good cause under MCR 3.923(G). If the child is in placement, the trial must commence as soon as possible, but not later than 63 days after the child is removed from the home unless the trial is postponed:

(1)-(3) [Unchanged.]

When trial is postponed pursuant to subrule (2) or (3), the court shall release the child to the parent, guardian, or legal custodian unless the court finds that releasing the child to the custody of the parent, guardian, or legal custodian will likely result in physical harm or serious emotional damage to the child.

If the child has been removed from the home, a review hearing must be held within 182 days of the date of the child's removal from the home, even if the trial has not been completed before the expiration of that 182-day period.

(B)-(E) [Unchanged.]

Rule 4.002 Transfer of Actions from District Court to Circuit Court

(A) Counterclaim or Cross-Claim in Excess of Jurisdiction.

(1) If a defendant asserts a counterclaim or cross-claim seeking relief of an amount or nature beyond the jurisdiction or power of the district court in which the action is pending, and accompanies the notice of the claim with an

~~affidavit~~ statement verified in the manner prescribed by MCR 1.109(D)(3) ~~stating~~ indicating that the defendant is justly entitled to the relief demanded, the clerk shall record the pleadings ~~and affidavit~~ and present them to the judge to whom the action is assigned. The judge shall either order the action transferred to the circuit court to which appeal of the action would ordinarily lie or inform the defendant that transfer will not be ordered without a motion and notice to the other parties.

- (2) ~~MCR 4.201(G)(2) and 4.202(I)(4) govern~~ Transfer of summary proceedings to recover possession of premises are governed under MCR 4.201(G)(2) and 4.202(I)(4) and subrules (C) and (D) of this rule.

(B) Change in Conditions.

- (1) A party may, at any time, file a motion with the district court in which an action is pending, requesting that the action be transferred to circuit court. The motion must be supported by ~~an~~ statement verified in the manner prescribed by MCR 1.109(D)(3)~~affidavit stating~~ indicating that

(a)-(b) [Unchanged.]

- (2) [Unchanged.]

~~(C) Conditions Precedent to Transfer. The action may not be transferred under this rule until the party seeking transfer pays to the opposing parties the costs they have reasonably incurred up to that time that would not have been incurred if the action had originally been brought in circuit court, and pays the statutory circuit court filing fee to the clerk of the court from which the action is to be transferred. If a case is entirely transferred from district court to circuit court and the jury fee was paid in the district court, the district court clerk shall forward the fee to the circuit court with the papers and filing fee under subrule (D). If the amount paid to the district court for the jury fee is less than the circuit court jury fee, then the party requesting the jury shall pay the difference to the circuit court.~~

~~(D) Filing in Circuit Court. After the court has ordered transfer and the costs and fees required by subrule (C) have been paid, the clerk of the court from which the action is transferred shall forward to the clerk of the circuit court the original papers in the action and the circuit court filing fee.~~

~~(E) Procedure After Transfer. After transfer no further proceedings may be conducted in the district court, and the action shall proceed in the circuit court. The circuit court may order further pleadings and set the time when they must be filed.~~

(C) Order for Transfer; Case Records.

- (1) The district court must enter all necessary orders pertaining to the certification and transfer of the action to the circuit court. The district court must order the moving party to pay the applicable statutory filing fee directly to the circuit court.
- (2) The district court may also order the party seeking transfer to pay the opposing parties the costs they have reasonably incurred up to that time that would not have been incurred if the action had originally been brought in circuit court.
- (3) The district court must serve the order on the parties and send a copy to the circuit court. The clerk of the district court must prepare the case records for transfer in accordance with the orders entered under subrule (1) and the Michigan Trial Court Records Management Standards and send them to the receiving court by a secure method.
- (4) The circuit court shall temporarily suspend payment of the filing fee and open a case pending payment of the filing fee and costs as ordered by the district court. The circuit court must notify the moving party of the new case number in the circuit court, the amount due, and the due date.
- (5) After transfer, no further proceedings may be conducted in the district court, and the action shall proceed in the circuit court. The circuit court may order further pleadings and set the time when they must be filed.

(D) Payment of Filing and Jury Fees After Transfer; Payment of Costs.

- (1) The party that moved for transfer must pay to the circuit court within 28 days of the date of the transfer order the applicable filing fee as ordered by the district court. No further action may be had in the case until payment is made. If the fee is not paid to the circuit court within 28 days of the date of the transfer order, the circuit court will either dismiss the counterclaim or cross-claim or order the case transferred back to the district court.
- (2) If the jury fee has been paid, the clerk of the district court must forward it to the clerk of the circuit court to which the action is transferred as soon as possible after the case records have been transferred. If the amount paid to the district court for the jury fee is less than the circuit court jury fee, then the party requesting the jury shall pay the difference to the circuit court.

- (3) If the court ordered payment of costs, the moving party must pay them to the opposing parties within 28 days of the date of the transfer order. If the costs are not paid within 28 days of the date of entry, the circuit court will either dismiss the counterclaim or cross-claim and/or order the case transferred back to the district court to proceed on the original claim.

Rule 4.101 Civil Infraction Actions

(A) Citation; Complaint; Summons; Warrant.

- (1) Except as otherwise provided by court rule or statute, a civil infraction action may be initiated by a law enforcement officer serving a written citation on the alleged violator, and filing the citation in the district court. The citation serves as the complaint in a civil infraction action and may be prepared electronically or on paper. The citation must be signed by the officer in accordance with MCR 1.109(E)(4); if a citation is prepared electronically and filed with a court as data, the name of the officer that is associated with issuance of the citation satisfies this requirement.

- (a) If the infraction is a parking violation, the action may be initiated by an authorized person placing a citation securely on the vehicle or mailing a citation to the registered owner of the vehicle. ~~In either event, the citation must be filed in the district court.~~

- (b) [Unchanged.]

~~The citation serves as the complaint in a civil infraction action, and may be filed either on paper or electronically.~~

- (2)-(4) [Unchanged.]

(B)-(E) [Unchanged.]

(F) Contested Actions; Notice; Defaults.

- (1) ~~A contested action may not be heard until a citation is filed with the court. If the citation is filed electronically, the court may decline to hear the matter until the citation is signed by the officer or official who issued it, and is filed on paper. A citation that is not signed and filed on paper, when required by the court, may be dismissed with prejudice.~~

- (12)-(45) [Renumbered but otherwise unchanged.]

(G)-(H) [Unchanged.]

Rule 4.201 Summary Proceedings to Recover Possession of Premises

(A) [Unchanged.]

(B) Complaint.

(1) In General. The complaint must

(a)-(c) [Unchanged.]

(d) describe the premises or the defendant's holding if it is less than the entire premises; and

(e) show the plaintiff's right to possession and indicate why the defendant's possession is improper or unauthorized; ~~and~~

(f) ~~demand a jury trial, if the plaintiff wishes one. The jury trial fee must be paid when the demand is made.~~

(2) Jury Demand. If the plaintiff wishes a jury trial, the demand must be made on a form approved by the State Court Administrative Office. The jury trial fee must be paid when the demand is made.

(23) Specific Requirements.

(a)-(e) [Unchanged.]

(C)-(F) [Unchanged.]

(G) Claims and Counterclaims.

(1) [Unchanged.]

(2) Removal.

(a) [Unchanged.]

(b) If a money claim or counterclaim exceeding the court's jurisdiction is introduced, the court, on motion of either party or on its own initiative, shall order, in accordance with the procedures in MCR 4.002, removal of that portion of the action to the circuit court, if the money claim or

counterclaim is sufficiently shown to exceed the court's jurisdictional limit.

(H)-(O) [Unchanged.]

Rule 4.202 Summary Proceedings; Land Contract Forfeiture

(A)-(H) [Unchanged.]

(I) Joinder; Removal.

(1)-(3) [Unchanged.]

(4) If a money claim or counterclaim exceeding the court's jurisdiction is introduced, the court, on motion of either party or on its own initiative, shall order, in accordance with the procedures in MCR 4.002, removal of that portion of the action, if the money claim or counterclaim is sufficiently shown to exceed the court's jurisdictional limit.

(J) Judgment. The judgment

(1)-(4) [Unchanged.]

(5) Notice. The ~~court~~plaintiff must mail or deliver a copy of the judgment to the parties. The time period for applying for the order of eviction does not begin to run until the judgment is mailed or delivered.

(K)-(L) [Unchanged.]

Rule 4.302 Statement of Claim

(A) Contents. The statement of the claim must be in an affidavit in substantially the form approved by the state court administrator. Affidavit forms shall be available at the clerk's office. The nature and amount of the claim must be stated in concise, nontechnical language, and the affidavit must state the date or dates when the claim arose. The form, captioning, signing, and verifying of documents are prescribed in MCR 1.109(D) and (E).

(B)-(D) [Unchanged.]

Rule 5.128 Change of Venue

- (A) Reasons for Change. On petition by an interested person or on the court's own initiative, the venue of a proceeding may be changed to another county by court order for the convenience of the parties and witnesses, for convenience of the attorneys, or if an impartial trial cannot be had in the county where the action is pending. Procedure for change of venue is governed by MCR 2.222 and MCR 2.223 except that a court must also transfer the original of an unadmitted will or a certified copy of an admitted will.
- (B) ~~Procedure. If venue is changed~~
- (1) ~~the court must send to the transferee court, without charge, copies of necessary documents on file as requested by the parties or the transferee court and the original of an unadmitted will or a certified copy of an admitted will; and~~
- (2) ~~except as provided in MCR 5.208(A) or unless the court directs otherwise, notices required to be published must be published in the county to which venue was changed.~~

Rule 5.302 Commencement of Decedent Estates

- (A) Methods of Commencement. A decedent estate may be commenced by filing an application for an informal proceeding or a petition for a formal testacy proceeding. A request for supervised administration may be made in a petition for a formal testacy proceeding.
- (1) When filing either an application or petition to commence a decedent estate, a copy of the death certificate must be attached. If the death certificate is not available, the petitioner may provide alternative documentation of the decedent's death.
- (2) Where electronic filing is implemented, if the application or petition to commence a decedent estate indicates that there is a will, it is available, and that it is not already in the court's possession, an exact copy of the will and any codicils must be attached to the application or petition. Within 7 days of the filing of the application or petition, the original will and any codicils must be filed with the court or the case will be dismissed without notice and hearing. Notice of a dismissal for failure to file the original will and any codicils shall be served on the petitioner and any interested persons in a manner provided under MCR 5.105(B).

- (3) ~~The court is prohibited from r~~Requiring additional documentation, such as information about the proposed or appointed personal representative,~~is prohibited.~~

(B)-(D) [Unchanged.]

Rule 5.731 ~~Confidential~~ Access to Records

Case rRecords filed with the court under the mental health code are public except as otherwise indicated in court rule or statute.

Rule 6.101 ~~The~~ Complaint

(A) [Unchanged.]

- (B) Signature and Oath. The complaint must be signed ~~and sworn to before a judicial officer or court clerk~~ and verified under MCR 1.109(D)(3). Any requirement of law that a complaint filed with the court must be sworn is met by this verification.

(C) [Unchanged.]

Rule 6.615 Misdemeanor Traffic Cases

(A) Citation; Complaint, Summons; Warrant.

- (1) A misdemeanor traffic case may be ~~begun~~initiated by one of the following procedures:
- (a) Service of a written citation by a law enforcement officer on the defendant, and the filing of the citation in the district court. The citation may be prepared electronically or on paper. The citation must be signed by the officer in accordance with MCR 1.109(E)(4); if a citation is prepared electronically and filed with a court as data, the name of the officer that is associated with issuance of the citation satisfies this requirement.

(b)-(c) [Unchanged.]

(2) [Unchanged.]

(B)-(C) [Unchanged.]

(D) Contested Cases.

- (1) ~~A contested case may not be heard until a citation is filed with the court. If the citation is filed electronically, the court may decline to hear the matter until the citation is signed by the officer or official who issued it, and is filed on paper. A citation that is not signed and filed on paper, when required by the court, may be dismissed with prejudice.~~
- (2) A misdemeanor traffic case must be conducted in compliance with the constitutional and statutory procedures and safeguards applicable to misdemeanors cognizable by the district court.

Rule 8.105 General Duties of Clerks

(A)-(B) [Unchanged.]

(C) Notice of Judgments, Orders, and Opinions. ~~Notice of a judgment, final order, written opinion or findings filed or entered in a civil action in a court of record must be given forthwith in writing by~~ The court clerk must deliver, in the manner provided in MCR 2.107, a copy of the judgment, final order, written opinion, or findings entered in a civil action to the attorneys or party who sought the order, judgment, opinion or findings. Except where e-Filing is implemented, if the attorney or party does not provide at least one copy when filing a proposed order or judgment, the clerk, when complying with this subrule, may charge the reproduction fee authorized by the court's local administrative order under MCR 8.119(H)(2). of record in the case, in the manner provided in MCR 2.107.

(D) [Unchanged.]

Rule 8.119 Court Records and Reports; Duties of Clerks

(A)-(H) [Unchanged.]

(I) Sealed Records.

(1)-(3) [Unchanged.]

(4) For purposes of this rule, "court records" includes all documents and records of any nature that are filed with or maintained by the clerk in connection with the action. Nothing in this rule is intended to limit the court's authority to issue protective orders pursuant to MCR 2.302(C). Materials that are subject to a motion to seal a record in whole or in part ~~shall~~ must be ~~held under seal~~ made nonpublic temporarily pending the court's disposition of the motion.

(5)-(9) [Unchanged.]

(J)-(L) [Unchanged.]

~~MCR 8.125 Electronic Filing of Citation~~

- ~~(A) Applicability. This rule applies to all civil infraction and misdemeanor actions initiated by a Michigan Uniform Law Citation or a Michigan Uniform Municipal Civil Infraction Citation.~~
- ~~(B) Citation; Complaint; Filing. A citation may be filed with the court either on paper or electronically. The filing of a citation constitutes the filing of a complaint. An electronic citation must contain all the information that would be required if the citation were filed on paper. A citation that contains the full name of the police officer or authorized local official who issued it will be deemed to have been signed pursuant to MCL 257.727c(3), 600.8705(3), or 600.8805(3).~~
- ~~(C) Contested Actions. If an electronic citation is contested, the court may decline to hear the matter until the citation is signed and filed on paper. A citation that is not signed and filed on paper, when required by the court, will be dismissed with prejudice.~~

Staff comment: The proposed amendments of MCR 1.109, 2.107, 2.113, 2.116, 2.119, 2.222, 2.223, 2.225, 2.227, 3.206, 3.211, 3.212, 3.214, 3.303, 3.903, 3.921, 3.925, 3.926, 3.931, 3.933, 3.942, 3.950, 3.961, 3.971, 3.972, 4.002, 4.101, 4.201, 4.202, 4.302, 5.128, 5.302, 5.731, 6.101, 6.615, 8.105, and 8.119 and proposed rescission of MCR 2.226 and 8.125 would continue the process for design and implementation of the statewide electronic-filing system.

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.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be sent to the Supreme Court Clerk in writing or electronically by September 1, 2019, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2002-37. Your comments and the comments of others will be posted under the chapter affected by this proposal at [Proposed & Recently Adopted Orders on Admin Matters page](#).



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.

May 15, 2019

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

Clerk