

Order

**Michigan Supreme Court
Lansing, Michigan**

April 23, 2014

Robert P. Young, Jr.,
Chief Justice

ADM File No. 2014-06

Michael F. Cavanagh
Stephen J. Markman

Proposed Amendment
of Rule 2.004 of the
Michigan Court Rules

Mary Beth Kelly
Brian K. Zahra
Bridget M. McCormack
David F. Viviano,
Justices

On order of the Court, this is to advise that the Court is considering an amendment of Rule 2.004 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 2.004 Incarcerated Parties

- (A) [Unchanged.]
- (B) The party seeking an order regarding a minor child shall
 - (1)-(2)[Unchanged.]
 - (3) file with the court the petition or motion seeking an order regarding the minor child, stating that a party is incarcerated and providing the party's prison number and location; the caption of the petition or motion shall state that a telephonic or video hearing is required by this rule.

- (C) When all the requirements of subrule (B) have been accomplished to the court's satisfaction, the court shall issue an order requesting the department, or the facility where the party is located if it is not a department facility, to allow that party to participate with the court or its designee by way of a noncollect and unmonitored telephone call or by video conference in a hearing or conference, including a friend of the court adjudicative hearing or meeting. The order shall include the date and time for the hearing, and the prisoner's name and prison identification number, and shall be served by the court upon the parties and the Michigan Department of Corrections Central Records Section or its designee, which shall notify the warden or supervisor of the facility where the incarcerated party resides.
- (D) [Unchanged.]
- (E) The purpose of the telephone call or video conference described in this subrule is to determine
- (1)-(3)[Unchanged.]
- (4) how the incarcerated party can communicate with the court or the friend of the court during the pendency of the action, and whether the party needs special assistance for such communication, including participation in additional telephone calls or video conferences, and
- (5) [Unchanged.]
- (F) A court may not grant the relief requested by the moving party concerning the minor child if the incarcerated party has not been offered the opportunity to participate in the proceedings, as described in this rule. This provision shall not apply if the incarcerated party actually does participate in a telephone call or video conference, or if the court determines that immediate action is necessary on a temporary basis to protect the minor child.
- (G) [Unchanged.]

Staff Comment: The proposed revisions of MCR 2.004 would change the service provisions with regard to an inmate's participation in a hearing or conference so that service would be required on MDOC's Central Records Section, instead of service on individual wardens or supervisors at the MDOC facilities; the proposed changes also would allow an inmate's participation by video or videoconferencing.

The staff comment is not an authoritative construction by the 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 August 1, 2014, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2014-06. 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.

April 23, 2014


Clerk