

Order

Michigan Supreme Court
Lansing, Michigan

March 19, 2020

Bridget M. McCormack,
Chief Justice

ADM File No. 2015-21

David F. Viviano,
Chief Justice Pro Tem

Proposed Amendments of Rules
3.971, 3.972, 3.973, 3.977, 3.993,
7.202, and 7.204 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 3.971, 3.972, 3.973, 3.977, 3.993, 7.202, and 7.204 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 will also 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 3.971 Pleas of Admission or No Contest

- (A) [Unchanged.]
- (B) Advice of Rights and Possible Disposition. Before accepting a plea of admission or plea of no contest, the court must advise the respondent on the record or in a writing that is made a part of the file:
- (1)-(7) [Unchanged.]
- (8) the respondent may be barred from challenging the assumption of jurisdiction in an appeal from an~~the~~ order terminating parental rights if they do not timely file an appeal of the initial dispositional order under MCR ~~7.2043.993(A)(1), 3.993(A)(2)~~, or a delayed appeal under MCR 3.993(C).

(C)-(D) [Unchanged.]

Rule 3.972 Trial

(A)-(E) [Unchanged.]

(F) Respondent's Rights Following Trial and Possible Disposition. If the trial results in a verdict that one or more statutory grounds for jurisdiction has been proven, the court shall advise the respondent orally or in writing that:

(1)-(2) [Unchanged.]

(3) the respondent may be barred from challenging the assumption of jurisdiction if they do not timely file an appeal under MCR ~~7.2043.993(A)(1), 3.993(A)(2)~~, or a delayed appeal under MCR 3.993(C).

(G) [Unchanged.]

Rule 3.973 Dispositional Hearing

(A)-(F) [Unchanged.]

(G) Respondent's Rights Upon Entry of Dispositional Order. When the court enters an initial order of disposition following adjudication the court shall advise the respondent orally or in writing:

(1)-(3) [Unchanged.]

(4) the respondent may be barred from challenging the assumption of jurisdiction or the removal of the minor from a parent's care and custody in an appeal from the order terminating parental rights if they do not timely file an appeal under MCR ~~7.2043.993(A)(1), 3.993(A)(2)~~, or a delayed appeal under MCR 3.993(C).

(H)-(J) [Unchanged.]

Rule 3.977 Termination of Parental Rights

(A)-(I) [Unchanged.]

(J) Respondent's Rights Following Termination.

(1) [Unchanged.]

(2) Appointment of Appellate Counsel~~Attorney~~. Request and appointment of appellate counsel is governed by MCR 3.993.

(a) ~~If a request is timely filed and the court finds that the respondent is~~

~~financially unable to provide an attorney, the court shall appoint an attorney within 14 days after the respondent's request is filed. The chief judge of the court shall bear primary responsibility for ensuring that the appointment is made within the deadline stated in this rule.~~

~~(b) In a case involving the termination of parental rights, the order described in (J)(2) and (3) must be entered on a form approved by the State Court Administrator's Office, entitled "Claim of Appeal and Order Appointing Counsel," and the court must immediately send to the Court of Appeals a copy of the Claim of Appeal and Order Appointing Counsel, a copy of the judgment or order being appealed, and a copy of the complete register of actions in the case. The court must also file in the Court of Appeals proof of having made service of the Claim of Appeal and Order Appointing Counsel on the respondent(s), appointed counsel for the respondent(s), the court reporter(s)/recorder(s), petitioner, the prosecuting attorney, the lawyer guardian ad litem for the child(ren) under MCL 712A.13a(1)(f), and the guardian ad litem or attorney (if any) for the child(ren). Entry of the order by the trial court pursuant to this subrule constitutes a timely filed claim of appeal for the purposes of MCR 7.204.~~

~~(3) Transcripts. If the court finds that the respondent is financially unable to pay for the preparation of transcripts for appeal, the court must order the complete transcripts of all proceedings prepared at public expense.~~

(K) [Unchanged.]

Rule 3.993 Appeals

(A)-(C) [Unchanged.]

(D) Request and Appointment of Counsel.

(1) A request for appointment of appellate counsel must be made within 14 days after notice of the order is given or an order is entered denying a timely filed postjudgment motion.

(2) If a request for appointment of appellate counsel is timely filed and the court finds that the respondent is financially unable to provide an attorney, the court shall appoint an attorney within 14 days after the respondent's request is filed. The chief judge of the court shall bear primary responsibility for ensuring that the appointment is made within the deadline stated in this rule.

(3) The order described in subrule (D)(2) must be entered on a form approved by the State Court Administrator’s Office, entitled “Claim of Appeal and Order Appointing Counsel,” and the court must immediately send to the Court of Appeals a copy of the Claim of Appeal and Order Appointing Counsel, a copy of the judgment or order being appealed, and a copy of the complete register of actions in the case. The court must also file in the Court of Appeals proof of having made service of the Claim of Appeal and Order Appointing Counsel on the respondent(s), appointed counsel for the respondent(s), the court reporter(s)/recorder(s), petitioner, the prosecuting attorney, the lawyer-guardian ad litem for the child(ren) under MCL 712A.13a(1)(f), and the guardian ad litem or attorney (if any) for the child(ren). Entry of the order by the trial court pursuant to this subrule constitutes a timely filed claim of appeal for the purposes of MCR 7.204.

(E) Transcripts. If the court appoints appellate counsel for respondent, the court must order the complete transcripts of all proceedings prepared at public expense.

Rule 7.202 Definitions

For purposes of this subchapter:

(1)-(4) [Unchanged.]

(5) “custody case” means a domestic relations case in which the custody of a minor child is an issue, an adoption case, or a child protective proceeding, or delinquency case in which a dispositional order removing the minor from the minor’s home is an issue~~case in which the family division of circuit court has entered an order terminating parental rights or an order of disposition removing a child from the child’s home;~~

(6) [Unchanged.]

Rule 7.204 Filing Appeal of Right; Appearance

(A) Time Requirements. The time limit for an appeal of right is jurisdictional. See MCR 7.203(A). The provisions of MCR 1.108 regarding computation of time apply. For purposes of subrules (A)(1) and (A)(2), “entry” means the date a judgment or order is signed, or the date that data entry of the judgment or order is accomplished in the issuing tribunal’s register of actions.

(1) Except where another time is provided by law or court rule, an appeal of right in any civil case must be taken within 21 days. The period runs from the

~~entry of: An appeal of right in a civil action must be taken within~~

- (a) ~~21 days after entry of the judgment or order appealed from;~~
- (b) ~~21 days after the entry of an order deciding a motion for new trial, a motion for rehearing or reconsideration, or a motion for other relief from the order or judgment appealed, if the motion was filed within the initial 21-day appeal period provided by (a), (c), or (d) of this subrule or within further time the trial court has allowed for good cause during that 21-day period;~~
- (c) ~~an order appointing counsel 14 days after entry of an order of the family division of the circuit court terminating parental rights under the Juvenile Code, or entry of an order denying a motion for new trial, rehearing, reconsideration, or other postjudgment relief from an order terminating parental rights, if the motion was filed within the initial 14-day appeal period or within further time the trial court may have allowed during that period; or~~
- (d) ~~an order denying a timely request for appointment of counsel in a civil case in which an indigent party is entitled to appointed counsel. The request is considered timely if received by the trial court within the time for claiming an appeal as provided by (a) or (b) of this subrule another time provided by law.~~

~~If a party in a civil action is entitled to the appointment of an attorney and requests the appointment within 14 days after the final judgment or order, the 14-day period for the taking of an appeal or the filing of a postjudgment motion begins to run from the entry of an order appointing or denying the appointment of an attorney. If a timely postjudgment motion is filed before a request for appellate counsel, the party may request counsel within 14 days after the decision on the motion.~~

(2)-(3) [Unchanged.]

(B)-(H) [Unchanged.]

Staff Comment: The proposed amendments of MCR 3.971, 3.972, 3.973, 3.977, 3.993, 7.202 and 7.204 would make the appeal process for child protective cases uniform (instead of having a separate process for cases involving termination of parental rights).

The amendments also would make the appeal period uniform (21 days) for all child protections cases.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or 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 amendment may be sent to the Supreme Court Clerk in writing or electronically by July 1, 2020, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2015-21. 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.

March 19, 2020

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

Clerk