

Order

Michigan Supreme Court
Lansing, Michigan

March 20, 2019

Bridget M. McCormack,
Chief Justice

ADM File No. 2018-27

David F. Viviano,
Chief Justice Pro Tem

Proposed Rescission of
Rule 8.123 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 a rescission of Rule 8.123 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 8.123 – Counsel Appointments; Procedure and Records~~

- (A) ~~Applicability. This rule applies to all trial courts, which means all circuit courts, district courts, probate courts, and municipal courts.~~
- (B) ~~Plan for Appointment. Each trial court must adopt a local administrative order that describes the court's procedures for selecting, appointing, and compensating counsel who represent indigent parties in that court.~~
- (C) ~~Approval by State Court Administrator. The trial court must submit the local administrative order to the State Court Administrator for review pursuant to MCR 8.112(B)(3). The State Court Administrator shall approve a plan if its provisions will protect the integrity of the judiciary.~~
- (D) ~~Required Records. At the end of each calendar year, a trial court must compile an annual electronic report of the total public funds paid to each attorney for appointments by that court.~~

~~This subrule applies to appointments of attorneys in any capacity, regardless of the indigency status of the represented party. Trial courts that contract for services to~~

~~be provided by an affiliated group of attorneys may treat the group as a single entity when compiling the required records.~~

~~The records required by this subrule must be retained for the period specified by the State Court Administrative Office's General Schedule 16.~~

- ~~(E) Public Access to Records. The records must be available at the trial court for inspection by the public, without charge. The court may adopt reasonable access rules, and may charge a reasonable fee for providing copies of the records.~~
- ~~(F) Reports to State Court Administrator. A trial court must submit its annual electronic report to the state court administrator in the form specified by the state court administrator. When requested by the state court administrator, a trial court must cooperate in providing additional data on an individual attorney, judge, or attorney group for a period specified by the request, including the number of appointments by each judge, the number of appointments received by an individual attorney or attorney group, and the public funds paid for appointments by each judge.~~

Staff Comment: Because counsel appointment plan review and data collection regarding payments for appointed counsel is now, by statute, a requirement of the Michigan Indigent Defense Commission under MCL 780.989 and MCL 780.993, this proposed amendment would rescind MCR 8.123, which requires certain data be collected from courts and plans for appointment be approved by SCAO.

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 July 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. 2018-27. 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 20, 2019

Clerk