

Order

Michigan Supreme Court
Lansing, Michigan

June 19, 2019

Bridget M. McCormack,
Chief Justice

ADM File No. 2018-36

David F. Viviano,
Chief Justice Pro Tem

Proposed Amendment of
Rule 3.802 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 an amendment of Rule 3.802 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 3.802 Manner and Method of Service

(A) Service of Documents.

(1) [Unchanged.]

(2) Notice of a petition to identify a putative father and to determine or terminate his rights, or a petition to terminate the rights of a ~~noncustodial~~ parent under MCL 710.51(6), must be served on the individual or the individual's attorney in the manner provided in:

(a)-(b) [Unchanged.]

(3)-(4) [Unchanged.]

(B) Service When Identity or Whereabouts of Father ~~are~~ Unascertainable

(1)-(2) [Unchanged.]

(C) Service When Whereabouts of ~~Noncustodial~~ Parent ~~are~~ Unascertainable. If service of a petition to terminate the parental rights of a ~~noncustodial~~ parent pursuant to MCL 710.51(6) cannot be made under subrule (A)(2) because the whereabouts of ~~that the noncustodial~~ parent ~~have~~ has not been ascertained after diligent inquiry, the petitioner must file proof of the efforts made to locate ~~that the noncustodial~~ parent in a statement made under MCR 1.109(D)(3). If the court finds, on reviewing the statement, that service cannot be made because the whereabouts of the person ~~have~~ has not been determined after reasonable efforts, the court may direct any manner of substituted service of the notice of hearing, including service by publication.

(D) [Unchanged.]

Staff comment: The proposed amendment of MCR 3.802 would eliminate references to the “noncustodial parent” to make the rule consistent with the statute (MCL 710.51) allowing stepparent adoption when the petitioning stepparent’s spouse has custody according to a court order, rather than requiring sole legal custody.

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 October 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. 2018-36. 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.

June 19, 2019

Clerk