

Order

Michigan Supreme Court
Lansing, Michigan

March 10, 2021

Bridget M. McCormack,
Chief Justice

ADM File No. 2020-36

Proposed Amendments of
Rules 3.903, 3.966, 3.975,
and 3.976 of the Michigan
Court Rules

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh
Elizabeth M. Welch,
Justices

On order of the Court, this is to advise that the Court is considering amendments of Rules 3.903, 3.966, 3.975, and 3.976 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 hearing 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 3.903 Definitions

(A)-(B) [Unchanged.]

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

(1)-(13) [Unchanged.]

(14) “Qualified Residential Treatment Program” means a residential program that has met all of the following criteria:

(a) Use of a trauma-informed treatment model;

(b) Registered or licensed nursing staff and other licensed clinical staff must be on-site or available 24 hours a day, 7 days a week;

(c) Accredited by an independent not-for-profit organization as described in 42 USC 672(k)(4)(G);

- (d) Integration of families into treatment, including sibling connections;
 - (e) Discharge planning and aftercare support for at least six months post discharge; and
 - (f) Does not include a detention center, forestry camp training school, or other facility operated primarily for minor children determined to be delinquent.
- (15) “Qualified Individual” means a trained professional or licensed clinician who is not an employee of the department and who is not connected to, or affiliated with, any placement setting in which children are placed by the department, and who is responsible for conducting an assessment of a child placed in a qualified residential treatment program pursuant to MCL 722.123a.

(D)-(F) [Unchanged.]

Rule 3.966 Other Placement Review Proceedings

(A)-(C) [Unchanged.]

(D) Review of Child’s Placement in a Qualified Residential Treatment Program

- (1) Ex Parte Motion for Review. Within 45 days of the child’s initial placement in a qualified residential treatment program, the Agency shall file an ex parte motion requesting the court to approve or disapprove of the placement.
 - (a) Supporting Documents. The motion shall be accompanied by the assessment, determination, and documentation made by the qualified individual.
 - (b) Service. The Agency shall serve the ex parte motion and accompanying documentation on all parties.
- (2) Judicial Determination. Within 14 days of filing, the court, or an administrative body appointed or approved by the court independently, shall review the motion, and any supporting documentation filed pursuant to this subrule, and issue an order approving or disapproving of the placement. The order shall include individualized findings by the court or administrative body as to:

- (a) whether the needs of the child can be met in a foster family home, or if not,
- (b) whether the placement of the child provides the most effective and appropriate level of care for the child in the least restrictive environment, and
- (c) whether the placement is consistent with the goals in the permanency plan for the child.

The court shall serve the order on parties. The court is not required to hold a hearing on the ex parte motion under this subrule.

Rule 3.975 Post-Dispositional Procedures: Child in Foster Care

(A) Dispositional Review Hearings. A dispositional review hearing is conducted to permit court review of the progress made to comply with any order of disposition and with the case service plan prepared pursuant to MCL 712A.18f and court evaluation of the continued need and appropriateness for the child to be in foster care; and to permit the court to approve or disapprove of the child's initial or continued placement in a qualified residential treatment program.

(B)-(E) [Unchanged.]

(F) Criteria.

(1)-(2) [Unchanged.]

(3) Review of Placement in Qualified Residential Treatment Program. Where a child remains placed in a qualified residential treatment program, the court shall review the evidence submitted by the Agency, approve or disapprove of the placement, and make individualized findings as to:

- (a) whether the needs of the child can be met through placement in a foster home; or if not,
- (b) whether the placement provides the most effective and appropriate level of care for the child in the least restrictive environment; and
- (c) whether the placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child.

(G)-(H) [Unchanged.]

Rule 3.976 Permanency Planning Hearings

(A)-(D) [Unchanged.]

(E) Determinations; Permanency Options.

(1) [Unchanged.]

(2) **Determining Whether to Return Child Home.** At the conclusion of a permanency planning hearing, the court must order the child returned home unless it determines that the return would cause a substantial risk of harm to the life, the physical health, or the mental well-being of the child. Failure to substantially comply with the case service plan is evidence that the return of the child to the parent may cause a substantial risk of harm to the child's life, physical health, or mental well-being. In addition, the court shall consider any condition or circumstance of the child that may be evidence that a return to the parent would cause a substantial risk of harm to the child's life, physical health, or mental well-being. If the court does not order the child returned home, and the child remains in a qualified residential treatment program, the court shall:

(a) review the evidence submitted by the Agency, approve or disapprove of the placement, and make individualized findings as to:

(i) whether the needs of the child can be met through placement in a family foster home; or if not,

(ii) whether the placement provides the most effective and appropriate level of care for the child in the least restrictive environment; and

(iii) whether the placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan of the child.

(3)-(4) [Unchanged.]

Staff comment: The proposed amendments of MCR 3.903, 3.966, 3.975, and 3.976 would make procedural changes for cases involving the placement of foster care children in a qualified residential treatment program as required by state and federal statutory revisions.

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, 2021, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2020-36. 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.

March 10, 2021

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

Clerk