

Order

Michigan Supreme Court
Lansing, Michigan

April 1, 2021

Bridget M. McCormack,
Chief Justice

ADM File No. 2020-36

Proposed Amendment of
Rule 3.945 and Proposed
Addition of Rule 3.947 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 an amendment of Rule 3.945 and a proposed addition of Rule 3.947 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 3.945 Dispositional Review

(A) Dispositional Review Hearings

- (1) Generally. The court must conduct periodic hearings to review the dispositional orders in delinquency cases in which the juvenile has been placed outside the home. Such review hearings must be conducted at intervals designated by the court, or may be requested at any time by a party or by a probation officer or caseworker. The victim has a right to make a statement at the hearing or submit a written statement for use at the hearing, or both. At a dispositional review hearing, the court may modify or amend the dispositional order or treatment plan to include any disposition permitted by MCL 712A.18 and MCL 712A.18a or as otherwise permitted by law; and shall permit the court to approve or disapprove of the child's initial or continued placement in a qualified residential treatment. The Michigan Rules of Evidence, other than those with respect to privileges, do not apply.
- (2) Required Review Hearings.

(a)-(b) [Unchanged.]

(c) At a review hearing held under this section, the court shall approve or disapprove of a child's initial placement or continued placement in a qualified residential treatment program.

(B)-(D) [Unchanged.]

[NEW] Rule 3.947 Other Placement Review Proceedings

(A) Review of Juvenile's Placement in A Qualified Residential Treatment Program.

(1) Ex Parte Petition for Review. Within 45 days of the juvenile's initial placement in a qualified residential treatment program, the Agency shall file an ex parte petition requesting the court approve or disapprove the placement.

(a) Supporting Documents. The petition shall be accompanied by the assessment, determination, and documentation made by the qualified individual.

(b) Service. The Agency shall serve the ex parte petition 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 petition, 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 whether:

(a) the needs of the juvenile can be met in a foster family home, and if not,

(b) whether placement of the juvenile provides the most effective and appropriate level of care for the juvenile in the least restrictive environment, and

(c) whether that placement is consistent with the goals in the permanency plan for the juvenile.

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

Staff comment: The proposed amendment of MCR 3.945 and the proposed addition of MCR 3.947 would make procedural changes involving the placement of foster care children in a qualified residential treatment program as required by newly-enacted 2021 PA 5.

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 August 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.

April 1, 2021

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

Clerk