



MICHIGAN COURTS NEWS RELEASE

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Ability to Pay Amendments to Court Rules Published for Comment

LANSING, MI, November 25, 2015 – The Michigan Supreme Court issued an [order](#) today seeking public comment on proposed amendments to court rules that would codify existing statutory and caselaw requirements related to the issue of “Ability to Pay.” The amendments would require a court to make a finding about whether a defendant is able to comply with an order to pay without “manifest hardship,” would incorporate specific criteria to be considered by the court in making that finding, and would explicitly allow courts to impose alternative payment options. The suggested amendments were proposed by the Michigan State Planning Body for the Delivery of Legal Services to the Poor.

Bearden v Georgia, 461 US 660 (1983), established that incarcerating an individual for failure to pay without first determining whether the individual has the ability to pay fines, fees, and costs is a violation of the person’s constitutional rights. More recently, in response to Michigan judges asking for guidance on how and when to determine ability to pay, the State Court Administrative Office established an Ability to Pay workgroup made up of circuit and district judges, court administrators, indigent defense experts, and other stakeholders, which discussed ways to help courts address this issue.

The [Ability to Pay workgroup report](#) was published and distributed to courts and other interested parties early this year. The document included extensive resources for courts, including:

- Ability to Pay Checklists
- Statutory Requirements
- Court Rule Requirements
- Case Law Summary
- Ability to Pay Language
- Payment Plan Calculators
- Federal Poverty Guidelines Charts
- Means Test
- Payment Alternatives
- Incentives/Waivers
- Model Debt Inactivation Policy

The proposed amendments would supplement these other tools provided in the Ability to Pay workgroup report. Comments from the public on the proposed court rule amendments will help the Court decide whether the proposed changes should be adopted, changed before adoption, or rejected. To comment via email, write to ADMcomment@courts.mi.gov. To comment using U.S. mail, please write to: Office of Administrative Counsel, PO Box 30052, Lansing, MI 48909. The deadline for public comments is March 1, 2016.

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