

# MICHIGAN SUPREME COURT



## *Office of Public Information*

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### **Court performance measures, Supreme Court and Court of Appeals camera rules on agenda for Supreme Court's Nov. 28 public administrative hearing**

LANSING, MI, November 26, 2012 – High performance by courts in such areas as timeliness, public access, and cost-effectiveness is the focus of an administrative proposal on the agenda for the Michigan Supreme Court's November 28 public administrative hearing.

The hearing will take place in the Michigan Supreme Court courtroom on the sixth floor of the Michigan Hall of Justice, 925 W. Ottawa Street, Lansing; the hearing will begin at 9:30 a.m. and adjourn no later than 11:30 a.m.

Anyone wishing to address the Court on an agenda item may contact the Clerk of the Court at [MSC\\_clerk@courts.mi.gov](mailto:MSC_clerk@courts.mi.gov) to reserve a place on the agenda. Speakers are limited to three minutes per agenda item.

The performance measurement proposal ([ADM File No. 2012-15](#)) was offered by the State Court Administrative Office, the Supreme Court's administrative agency. Among other matters, the proposed order would direct SCAO to establish performance measures for trial courts and would require courts to report on their performance to SCAO. SCAO would also make statewide court performance data available online.

SCAO first began studying court performance measures in the 1990s with a task force of judges and court administrators. In 2005, the National Center for State Courts launched "[CourTools](#)," a set of performance measures including "access and fairness," "cost per case," and "time to disposition." In February and March, a series of focus groups proposed performance measures for Michigan trial courts, many based on CourTools. Courts already report some measures to SCAO, such as case age and time to disposition.

The court performance proposal, and related comments, is available online at <http://www.courts.michigan.gov/courts/michigansupremecourt/rules/court-rules-admin-matters/pages/administrative-orders.aspx>.

Also on the public hearing agenda is a proposed amendment ([ADM File No. 2011-09](#)) to Supreme Court Administrative Order 1989-1, "Film or Electronic Media Coverage of Court Proceedings." Like the current version of the rule, the proposal provides that media who seek to bring cameras or electronic recording devices to cover court proceedings must submit their requests in writing "not less than three business days" before the court proceeding. The proposed amendment would require the Supreme Court and Court of Appeals to grant such requests,

“except for good cause as determined under MCR 8.116(D).” MCR 8.116(D), “Access to Court Proceedings,” requires in part that, before limiting public access to a court proceeding, a court must state, on the record, “a specific interest to be protected” that “outweighs the right of access.”

Public administrative hearings are part of the Supreme Court’s rule-making process. Proposed changes to the Michigan Court Rules, Michigan Rules of Evidence, attorney and judicial ethics rules, and other court administrative matters, and related comments, are online at <http://www.courts.mi.gov/courts/michigansupremecourt/rules/court-rules-admin-matters/pages/default.aspx>. Proposals are generally published for public input before being placed on an administrative hearing agenda.

Judges and other judicial officers, including referees and magistrates, would be able to participate in some court hearings by videoconference under another proposal ([ADM File No. 2012-16](#)) on the Court’s public hearing agenda. The proposal would allow SCAO “to approve the use of two-way interactive video technology in the trial courts to allow judicial officers to preside remotely in any proceeding that may be conducted by two-way interactive technology or communication equipment without the consent of the parties under the Michigan Court Rules and statutes.” Judicial officers who preside in a judicial circuit or district with multiple locations could use interactive two-way video technology to hold hearings; the proposal would also apply to those who are assigned to hear cases outside their own circuits or districts. The proposal adds that “The judicial officer who presides remotely must be physically present in a courthouse located within his or her judicial circuit, district, or multiple district area.”

Also on the Supreme Court’s agenda:

- [ADM File No. 2011-14](#), proposed amendment of MCR 2.105, “Process; Manner of Service.” Parties to a civil lawsuit may be served with process in a number of ways, including personal delivery to the defendant or mailing to the defendant’s current or last known address. But where service of process cannot be made in the usual manner, the court can order “service of process to be made in any other manner reasonably calculated to give the defendant actual notice of the proceedings and an opportunity to be heard,” the court rule provides; the moving party must first show “that process cannot be served under this rule.” If the defendant’s “name or present address ... is unknown,” the moving party “must set forth facts showing diligent inquiry” to find the information. The proposed rule change would define “diligent inquiry” to include “an online search if the moving party has reasonable access to the Internet.”
- [ADM File No. 2011-18](#), proposed retention of the amendment of MCR 6.302, “Pleas of Guilty and Nolo Contendere.” The rule applies where a defendant in a criminal case pleads guilty or no contest to charges as part of a plea deal with prosecutors. At the sentencing hearing, the judge must advise the defendant of “the maximum possible prison sentence for the offense and any mandatory minimum sentence required by law ...” The amendment adds another requirement: the judge must advise the defendant if the sentence includes mandatory lifetime electronic monitoring, such as an electronic tether. The amendment codifies the Michigan Supreme Court’s May 2012 decision in [People v Cole](#). At issue now is whether to retain the amendment.

- [ADM File No. 2012-03](#), proposed adoption of MCR 1.111 and MCR 8.127. MCR 1.111 would set procedures and standards for courts to appoint foreign language interpreters for persons with limited English proficiency. Court interpreters would be required to register with SCAO and to have passed a SCAO test or “a similar state or federal test approved by the state court administrator.” MCR 8.127 would create a board to oversee interpreter certification and other interpreter-related functions; the rule would also create a procedure for the board to discipline court interpreters for misconduct.

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