

# Order

Michigan Supreme Court  
Lansing, Michigan

April 18, 2012

Robert P. Young, Jr.,  
Chief Justice

ADM File No. 2012-10

Michael F. Cavanagh  
Marilyn Kelly

Proposed Amendment of  
Rule 3.979 of the  
Michigan Court Rules

Stephen J. Markman  
Diane M. Hathaway  
Mary Beth Kelly  
Brian K. Zahra,  
Justices

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On order of the Court, this is to advise that the Court is considering amendment of Rule 3.979 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 <http://courts.michigan.gov/supremecourt/Resources/Administrative/PH.htm>.

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 3.979 Juvenile Guardianships

(A)–(B) [Unchanged.]

(C) Court Jurisdiction; Review Hearings; Lawyer\_Guardian ad Litem.

- (1) Jurisdiction. The court's jurisdiction over a juvenile guardianship shall continue until terminated by court order. The court's jurisdiction over a juvenile under section 2(b) of the Juvenile Code, MCL 712A.2(b), and the jurisdiction of the MCI under section 3 of 1935 PA 220, MCL 400.203, shall be terminated after the court appoints a juvenile guardian under this section and conducts a review hearing pursuant to MCR 3.975 when parental rights to the child have not been terminated, or a review hearing pursuant to MCR 3.978 when parental rights to the child have been terminated. Upon notice by the Department of Human Services that extended guardianship assistance beyond age 18 will be provided to a youth

pursuant to MCL 400.665, the court shall retain jurisdiction over the guardianship until that youth no longer receives extended guardianship assistance.

- (2) Review Hearings. The review hearing following appointment of the juvenile guardian must be conducted within 91 days of the most recent review hearing if it has been one year or less from the date the child was last removed from the home, or within 182 days of the most recent review hearing if it has been more than one year from the date the child was last removed from the home.
- (3) Lawyer-Guardian ad Litem. The appointment of the lawyer-guardian ad litem in the child protective proceeding terminates upon entry of the order terminating the court's jurisdiction pursuant to MCL 712A.2(b). At any time after a juvenile guardian is appointed, the court may reappoint the lawyer-guardian ad litem or may appoint a new lawyer-guardian ad litem if the court is satisfied that such action is warranted. A lawyer-guardian ad litem appointed under this subrule is subject to the provisions of MCL 712A.17d.

(D) Court Responsibilities.

(1) Annual Review.

- (a) The court shall conduct a review of a juvenile guardianship annually. The review shall be commenced within 63 days after the anniversary date of the appointment of the guardian. The court may conduct a review of a juvenile guardianship at any time it deems necessary. If the report of the juvenile guardian has not been filed as required by subrule (E)(1), the court shall take appropriate action.
- (b) If extended guardianship assistance has been provided to a youth pursuant to MCL 400.665, the court shall conduct an annual review hearing at least once every 12 months after the youth's eighteenth birthday to determine that the guardianship meets the criteria under MCL 400.667. Notice of the hearing shall be sent to the guardian and the youth as provided in MCR 3.920(D)(1). The court shall issue an order to support its determination and serve the order on the Department of Human Services, the guardian, and the youth.

(2)–(4)[Unchanged.]

(E)–(F) [Unchanged,]

Staff Comment: The proposed amendment of MCR 3.979 implements the judicial action requirements of 2011 PA 225 and 2011 PA 229 by: (1) acknowledging court jurisdiction over guardianships for which the Department of Human Services will continue providing subsidies after the wards reach age 18; and (2) requiring that the supervising courts conduct annual review hearings and make appropriate findings. Adoption of the proposed amendment will enable Michigan to receive federal Title IV-E funding for the post-18 guardianship program.

The staff comment is not an authoritative construction by the 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 these proposals may be sent to the Supreme Court Clerk in writing or electronically by August 1, 2012, at P.O. Box 30052, Lansing, MI 48909, or [MSC\\_clerk@courts.mi.gov](mailto:MSC_clerk@courts.mi.gov). When filing a comment, please refer to ADM File No. 2012-10. Your comments and the comments of others will be posted at <http://courts.michigan.gov/supremecourt/Resources/Administrative/index.htm#proposed>.



I, Corbin R. Davis, 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 18, 2012

*Corbin R. Davis*

Clerk