

# Order

Michigan Supreme Court  
Lansing, Michigan

March 25, 2015

Robert P. Young, Jr.,  
Chief Justice

ADM File No. 2014-49

Stephen J. Markman  
Mary Beth Kelly  
Brian K. Zahra  
Bridget M. McCormack  
David F. Viviano  
Richard H. Bernstein,  
Justices

Amendments of Rules 3.903,  
3.920, 3.961, and 3.965 of  
the Michigan Court Rules

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On order of the Court, the need for immediate action having been found, the following amendments of Rules 3.903, 3.920, 3.961, and 3.965 of the Michigan Court Rules are adopted, effective immediately but pending public comment. This notice is given to afford interested persons the opportunity to comment on the form or the merits of the amendments or to suggest alternatives. The Court welcomes the views of all. This matter will be considered at a public hearing. The notices and agendas for public hearings are posted at [Administrative Matters & Court Rules page](#).

[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

## Rule 3.903 Definitions

(A) [Unchanged.]

(1)-(26)[Unchanged.]

(27) “Trial” means the fact-finding adjudication of an authorized petition to determine if the minor comes within the jurisdiction of the court. “Trial” also means a specific adjudication of a parent’s unfitness to determine whether the parent is subject to the dispositional authority of the court.

(B) [Unchanged.]

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

- (1) “Agency” means a public or private organization, institution, or facility responsible pursuant to court order or contractual arrangement for the care and supervision of a child.
- (2) “Amended petition” means a petition filed to correct or add information to an original petition, as defined in A(21), after it has been authorized, but before it is adjudicated.
- ~~(2-6)~~ [Renumbered as (3) through (7) but otherwise unchanged.]
- (8) “Nonrespondent parent” means a parent who is not named as a respondent in a petition filed under MCL 712A.2(b).
- (79) “Offense against a child” means an act or omission by a parent, guardian, nonparent adult, or legal custodian asserted as grounds for bringing the child within the jurisdiction of the court pursuant to the Juvenile Code.
- (810) “Placement” means court-approved transfer of physical custody of a child to foster care, a shelter home, a hospital, or a private treatment agency.
- (911) “Prosecutor” or “prosecuting attorney” means the prosecuting attorney of the county in which the court has its principal office or an assistant to the prosecuting attorney.
- (4012) Except as provided in MCR 3.977(B), “respondent” means the parent, guardian, legal custodian, or nonparent adult who is alleged to have committed an offense against a child.
- (13) “Supplemental petition” means:
- (a) a written allegation, verified in the manner provided in MCR 2.114(B), that a parent, for whom a petition was authorized, has committed an additional offense since the adjudication of the petition, or
- (b) a written allegation, verified in the manner provided in MCR 2.114(B), that a nonrespondent parent is being added as an additional respondent in a case in which an original petition has been authorized and adjudicated against the other parent under MCR 3.971 or MCR 3.972, or

- (c) a written allegation, verified in the manner provided in MCR 2.114(B), that requests the court terminate parental rights of a parent or parents under MCR 3.977(F) or MCR 3.977(H).

(D)-(F) [Unchanged.]

#### Rule 3.920 Service of Process

(A) [Unchanged.]

(B) Summons.

(1) [Unchanged.]

(2) When Required. Except as otherwise provided in these rules, the court shall direct the service of a summons in the following circumstances:

(a) [Unchanged.]

(b) In a child protective proceeding, a summons must be served on ~~the~~any respondent and any nonrespondent parent. A summons may be served on a person having physical custody of the child directing such person to appear with the child for hearing. A ~~parent~~, guardian, or legal custodian who is not a respondent must be served with notice of hearing in the manner provided by subrule (D).

(c) [Unchanged.]

(3) Content. The summons must direct the person to whom it is addressed to appear at a time and place specified by the court and must:

(a) identify the nature of hearing;

(b) explain the right to an attorney and the right to trial by judge or jury, including, where appropriate, that there is no right to a jury at a termination hearing;

(c) if the summons is for a child protective proceeding, include a ~~prominent~~ notice that the hearings could result in termination of parental rights of a respondent parent; and

(d) have a copy of the petition attached.

(4)-(5)[Unchanged.]

(C)-(I)[Unchanged.]

#### Rule 3.961 Initiating Child Protective Proceedings

(A)-(B)[Unchanged.]

(C) Amended and Supplemental Petitions.

- (1) If a nonrespondent parent is being added as an additional respondent to a petition that has been authorized by the court under MCR 3.962 or MCR 3.965 against the first respondent parent, and the first respondent parent has not made a plea under MCR 3.971 or a trial has not been conducted under MCR 3.972, the allegations against the second respondent shall be filed in an amended petition.
- (2) If a nonrespondent parent is being added as an additional respondent in a case in which a petition has been authorized under MCR 3.962 or MCR 3.965, and adjudicated by plea under MCR 3.971 or by trial under MCR 3.972, the allegations against the second respondent shall be filed in a supplemental petition.
- (3) If either an amended or supplemental petition is not accompanied by a request for placement of the child or the child is not in protective or temporary custody, the court shall conduct a preliminary inquiry to determine the appropriate action to be taken on a petition. If either the amended or supplemental petition contains a request for removal, the court shall conduct a preliminary hearing to determine the appropriate action to be taken on the petition consistent with MCR 3.965(B). If the amended petition is authorized, the court shall proceed against each respondent parent in accordance with MCR 3.971 or MCR 3.972.

#### Rule 3.965 Preliminary Hearing

(A) [Unchanged.]

(B) Procedure.

(1)-(7)[Unchanged.]

- (8) The court must advise a nonrespondent parent of his or her right to seek placement of his or her children in his or her home.

(8-13) [Renumbered as (9)-(14), but otherwise unchanged.]

(C)-(D)[Unchanged.]

*Staff Comment:* The amendments of MCR 3.903, 3.920, 3.961, and 3.965 were prompted by the Michigan Supreme Court's decision in *In re Sanders*, 495 Mich 394 (2014), to provide clarification and procedural provisions consistent with the Court's holding in that case.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or 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 Office of Administrative Counsel in writing or electronically by July 1, 2015, at P.O. Box 30052, Lansing, MI 48909, or [ADMcomment@courts.mi.gov](mailto:ADMcomment@courts.mi.gov). When filing a comment, please refer to ADM File No. 2014-49. 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 25, 2015

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

Clerk