

Agenda
Public Policy Committee
January 14, 2025 – 12:00 p.m. to 1:30 p.m.
Via Zoom Meetings

Public Policy Committee.....Lisa J. Hamameh, Chairperson

A. Reports

1. Approval of November 20, 2024 minutes
2. Public Policy Report

B. Court Rule Amendments

1. ADM File No. 2024-03: Proposed Amendment of MCR 2.003

The proposed amendment of MCR 2.003 would clarify the assignment procedures when a business court judge has been disqualified from a case.

Status: 02/01/25 Comment Period Expires.

Referrals: 10/24/24 Civil Procedure & Courts Committee; Professional Ethics Committee; Business Law Section.

Comments: Civil Procedure & Courts Committee.

Comments provided to the Court are included in the materials.

Liaison: Silvia A. Mansoor

2. ADM File No. 2022-08: Proposed Amendment of MCR 7.206

The proposed amendment of MCR 7.206 would require the Court of Appeals to engage in certain procedures if it receives a county reapportionment challenge.

Status: 02/01/25 Comment Period Expires.

Referrals: 10/31/24 Civil Procedure & Courts Committee; Appellate Practice Section; Government Law Section.

Comments: Civil Procedure & Courts Committee.

Liaison: Douglas B. Shapiro

3. ADM File No. 2022-23: Proposed Amendment of MCR 7.306

The proposed amendment of MCR 7.306 would facilitate factual development in statewide redistricting cases.

Status: 02/01/25 Comment Period Expires.

Referrals: 10/31/24 Civil Procedure & Courts Committee; Appellate Practice Section; Government Law Section.

Comments: Civil Procedure & Courts Committee.

Liaison: John W. Reiser, III

4. ADM File No. 2022-48: Proposed Amendment of MCJC 3

The proposed amendment of MCJC 3 would allow a judge to make reasonable efforts to facilitate the ability of all litigants to be fairly heard.

Status: 02/01/25 Comment Period Expires.

Referrals: 10/31/24 Access to Justice Policy Committee; Civil Procedure & Courts Committee; Criminal Jurisprudence & Practice Committee; Judicial Ethics Committee.

Comments: Access to Justice Policy Committee; Civil Procedure & Courts Committee; Criminal Jurisprudence & Practice Committee; Judicial Ethics Committee.

Comment provided to the Court is included in the materials.

Liaison: Ashley E. Lowe

C. Legislation

1. Judicial Protection Act

Liaison: Aaron V. Burrell

MINUTES
Public Policy Committee
November 20, 2024

Committee Members: Lori A. Buiteweg, Aaron V. Burrell, Patrick J. Crowley, Lisa J. Hamameh, Ashley E. Lowe, Silvia A. Mansoor, John W. Reiser, III, Douglas B. Shapiro, Danielle Walton
SBM Staff: Peter Cunningham, Nathan Triplett, Carrie Sharlow
GCSI Staff: Marcia Hune

A. Reports

1. Approval of September 18, 2024 minutes
2. Public Policy Report

B. Court Rule Amendments

1. ADM File No. 2020-08: Proposed Amendments of MCR 2.107 and 3.203

MCR 2.107(G) was adopted and simultaneously published for comment by the Court on July 26, 2021. The proposed amendment of MCR 2.107 in this order reflects an alternative proposal that would expand the use of electronic service by requiring its use unless a party opts out, as suggested by some commenters on the original proposal. The proposed amendment of MCR 3.203 clarifies the use of electronic service in domestic relations cases.

The following entities offered the following recommendations: Access to Justice Policy Committee; Civil Procedure & Courts Committee; Family Law Section; Criminal Law Section.

The Committee voted 7 to 1 to support ADM File No. 2020-08 with an amendment to provide that, while parties represented by counsel should be required to *opt out* of electronic service, parties proceeding pro se should be required to *opt in* to electronic service.

2. ADM File No. 2021-27: Proposed Amendments of MCR 3.207 and 3.210

The proposed amendment of MCR 3.207 would: (1) clarify the pleading requirements for requesting certain ex parte orders, (2) require that an evidentiary hearing be scheduled anytime the court enters an order that may change a child's established custodial environment, and (3) clarify the procedure following service of an ex parte order. The proposed amendment of MCR 3.210 would require courts to hold an evidentiary hearing prior to entering an order changing a child's established custodial environment in contested cases.

The following entities offered the following recommendations: Access to Justice Policy Committee; Civil Procedure & Courts Committee; Updated Family Law Section.

The committee voted to 8 to 1 support to adopt the position of the Family Law Section.

3. ADM File No. 2022-59: Proposed Amendment of MCR 6.302

The proposed amendment of MCR 6.302 would require courts, after accepting a plea, to advise defendants of their ability to withdraw their plea and to specifically advise defendants of the consequences of misconduct in between plea acceptance and sentencing.

The following entities offered the following recommendations: Access to Justice Policy Committee; Criminal Jurisprudence & Practice Committee; Criminal Law Section.

The Committee voted unanimously (9) to support ADM File No. 2022-59 with an amendment striking "after" and inserting "before" in the proposed language of MCR 6.302(G).

4. ADM File No. 2023-07: Proposed Amendment of MCR 6.433

The proposed amendment of MCR 6.433 would require an indigent defendant to provide certain information before a court can consider whether good cause exists to order transcription of additional proceedings.

The following entities offered the following recommendations: Access to Justice Policy Committee; Criminal Jurisprudence & Practice Committee; Criminal Law Section.

The committee voted unanimously (9) to oppose ADM File No. 2023-07.

5. ADM File No. 2022-51: Proposed Amendment of MCR 6.509

The proposed amendment of MCR 6.509 would clarify that defendants may file with the Court of Appeals an application for leave to appeal a trial court's decision on: (1) a motion for relief from judgment; and (2) a timely-filed motion to reconsider an order deciding a motion for relief from judgment. Note that a separate proposal affecting MCR 6.509(A) is proposed under ADM File No. 2022-57.

The following entities offered the following recommendations: Access to Justice Policy Committee; Criminal Jurisprudence & Practice Committee; Appellate Practice Section; Criminal Law Section.

The committee voted 8 to 1 to support ADM File No. 2022-51.

6. ADM File No. 2022-57: Proposed Amendments of MCR 6.508 and 6.509

The proposed amendments of MCR 6.508 and 6.509 would: (1) require trial courts that make a partial decision on a postjudgment motion for relief to reissue the order in its entirety after it decides the remaining issues, and (2) clarify that a reissued order constitutes a decision under subchapter 6.500 of the Michigan Court Rules for purposes of filing an application for leave to appeal with the Court of Appeals. Note that a separate proposal affecting MCR 6.509(A) is proposed under ADM File No. 2022-51.

The following entities offered the following recommendations: Access to Justice Policy Committee; Criminal Jurisprudence & Practice Committee; Appellate Practice Section; Criminal Law Section.

The committee voted unanimously (9) to support ADM File No. 2022-57.

7. ADM File No. 2023-04: Proposed Amendments of MCR 7.212, 7.305, and 7.312

The proposed amendments of MCR 7.212, 7.305, and 7.312 would address the filing and timing of amicus curiae briefs. For both appellate courts, the proposal would: allow amicus curiae briefs in response to an application for leave to appeal; eliminate the motion filing fee; and expand the groups that are able to file a brief without a motion or invitation. For the Supreme Court, the proposal would also allow parties to file a response to an adverse amicus curiae brief, subject to certain timing and content requirements.

The following entities offered the following recommendations: Access to Justice Policy Committee; Civil Procedure & Courts Committee; Criminal Jurisprudence & Practice Committee; Appellate Practice Section; Children's Law Section; Family Law Section; Criminal Law Section.

The Committee voted unanimously (9) to support ADM File No. 2023-04 with the following amendments:

- 1. eliminate the limit of 3,200 words proposed in MCR 7.305(F) and MCR 7.312(A)(2)(c);**
- 2. replace “in support of or in opposition to” in MCR 7.305(F) with “in response to;”**
- 3. add tribal governments, the Legal Services Association of Michigan, the Michigan State Planning Body, and legal services programs that are annual grantees of the federal Legal Services Corporation or the Michigan State Bar Foundation to the list of those who are not required to file a motion for leave or receive an invitation to file an amicus brief in MCR 7.212 and 7.312.**

8. ADM File No. 2023-25: Proposed Amendment of MRPC 1.6 and Comment

The proposed amendment of MRPC 1.6 would provide an exception to the confidentiality rule by permitting a lawyer to reveal, to certain individuals, confidences or secrets to the extent reasonably necessary to protect a client from self-harm that may result in the client's death.

The following entities offered the following recommendations:

The Committee voted unanimously (8) to oppose ADM File No. 2023-25 as drafted, but to support the concept.

C. Legislation

1. **HCR 6** (Wilson) A concurrent resolution to approve the State Officers Compensation Commission determinations.

The Committee voted 7 to 1 that HCR 6 is *Keller* permissible as it is reasonably related to the functioning of the courts.

The Committee voted unanimously (8) to support HCR 6.



December 23, 2024

Larry S. Royster
Clerk of the Court
Michigan Supreme Court
P.O. Box 30052
Lansing, MI 48909

RE: ADM File No. 2020-08: Proposed Amendments of Rules 2.107 and 3.203 of the Michigan Court Rules

Dear Clerk Royster:

At its most recent meeting, the Board of Commissioners of the State Bar of Michigan considered ADM File No. 2020-08. In its review, the Board considered recommendations from the Access to Justice Policy Committee, Civil Procedure & Courts Committee, and the Family Law Section. The Board voted unanimously to support the proposed amendments of Rules 2.107 and 3.203 with a further amendment providing that, while parties represented by counsel should be required to *opt out* of electronic service, parties proceeding pro se should be required to *opt in*.

In the vast majority of circumstances, electronic service has proven to be a valuable innovation that promotes greater efficiency and expediated communication in legal proceedings. In those special circumstances when electronic service is not accessible or otherwise appropriate, the amendments proposed in ADM File No. 2020-08 include procedures for parties to opt out. While these procedures are likely sufficient for those parties represented by counsel familiar with the Court Rules and comfortable with legal practice, default electronic service would likely create additional, unintended access to justice issues for unrepresented individuals, especially those who lack ready, reliable access to the internet. Requiring parties proceeding pro se to opt in to electronic service will help ameliorate this concern.

Thank you for the opportunity to comment on the proposed amendments.

Sincerely,

Peter Cunningham
Executive Director

cc: Sarah Roth, Administrative Counsel, Michigan Supreme Court
Joseph P. McGill, President



December 23, 2024

Larry S. Royster
Clerk of the Court
Michigan Supreme Court
P.O. Box 30052
Lansing, MI 48909

RE: ADM File No. 2021-27: Proposed Amendments of Rules 3.207 and 3.210 of the Michigan Court Rules

Dear Clerk Royster:

At its most recent meeting, the Board of Commissioners of the State Bar of Michigan considered ADM File No. 2021-27. In its review, the Board considered recommendations from the Access to Justice Committee, Civil Procedure & Courts Committee, and Family Law Section. The Board voted unanimously to support the proposed amendments of Rules 3.207 and 3.210 with several further amendments that were recommended by the Family Law Section:

1. Strike “If a hearing date was set in the order, the court may cancel the hearing” from proposed Rule 3.207(B)(5)(a).
2. Reword Rule 3.207(B)(6) to read as follows: “3. The ex parte order will automatically become a temporary order if you do not file a written objection or motion to modify or rescind the ex parte order. The hearing scheduled in the order will take place regardless of whether an objection or motion is filed. Even if an objection or motion is filed, the ex parte order will remain in effect and must be obeyed unless changed by a later court order.”
3. Reword Rule 3.207(B)(5)(b) as follows: “If a party files a motion to rescind or modify the ex parte order without filing an objection, the court must hold an evidentiary hearing and resolve the dispute within 21 days of the motion to rescind or modify being filed or on the hearing date specified in the ex parte order, if any.”
4. Reword Rule 3.207(B)(1)(a) as follows: “(a) A verified motion or pleading that requests an ex parte custody or parenting time order or that requests a change of custody or parenting time must include the following information: (i) facts establishing whether the child has an established custodial environment with either parent, or both parents, or neither parent; and”

Thank you for the opportunity to comment on the proposed amendments.

Sincerely,



Peter Cunningham
Executive Director

cc: Sarah Roth, Administrative Counsel, Michigan Supreme Court
Joseph P. McGill, President





December 23, 2024

Larry S. Royster
Clerk of the Court
Michigan Supreme Court
P.O. Box 30052
Lansing, MI 48909

RE: ADM File No. 2022-51: Proposed Amendment of Rule 6.509 of the Michigan Court Rules

Dear Clerk Royster:

At its most recent meeting, the Board of Commissioners of the State Bar of Michigan considered ADM File No. 2022-51. In its review, the Board considered recommendations from the Access to Justice Policy Committee, Criminal Jurisprudence & Practice Committee, and Appellate Practice Section. The Board voted unanimously to support the proposed amendment of Rule 6.509. To the extent that there is confusion or inconsistent practice today surrounding the proper computation of time limitations applicable to certain appeals, the Bar believes that the addition of language proposed in ADM File No. 2022-51 will provide greater clarity to both the bench and bar regarding the proper procedure for handling a motion for relief from judgement and motions to reconsider orders deciding motions from relief from judgment.

Thank you for the opportunity to comment on the proposed amendment.

Sincerely,

A handwritten signature in black ink that reads "Peter Cunningham".

Peter Cunningham
Executive Director

cc: Sarah Roth, Administrative Counsel, Michigan Supreme Court
Joseph P. McGill, President



December 23, 2024

Larry S. Royster
Clerk of the Court
Michigan Supreme Court
P.O. Box 30052
Lansing, MI 48909

RE: ADM File No. 2022-57: Proposed Amendments of Rules 6.508 and 6.509 of the Michigan Court Rules

Dear Clerk Royster:

At its most recent meeting, the Board of Commissioners of the State Bar of Michigan considered ADM File No. 2022-57. In its review, the Board considered recommendations from the Access to Justice Policy Committee, Criminal Jurisprudence & Practice Committee, and the Appellate Practice Section. The Board voted unanimously to support the proposed amendments of Rules 6.508 and 6.509. As with the proposed amendment of Rule 6.509(A) contained in ADM File No. 2022-51, the Bar believes that this related proposal will provide greater clarity for both the bench and bar regarding the procedure to be followed when a court decides a motion filed under Rule 3.502 in parts.

Thank you for the opportunity to comment on the proposed amendments.

Sincerely,



Peter Cunningham
Executive Director

cc: Sarah Roth, Administrative Counsel, Michigan Supreme Court
Joseph P. McGill, President





December 23, 2024

Larry S. Royster
Clerk of the Court
Michigan Supreme Court
P.O. Box 30052
Lansing, MI 48909

RE: ADM File No. 2022-59: Proposed Amendment of Rule 6.302 of the Michigan Court Rules

Dear Clerk Royster:

At its most recent meeting, the Board of Commissioners of the State Bar of Michigan considered ADM File No. 2022-59. In its review, the Board considered recommendations from the Access to Justice Policy Committee and Criminal Jurisprudence & Practice Committee. The Board voted unanimously to support the proposed amendment of Rule 6.302 with a further amendment striking “after” and inserting “before” in the first sentence of proposed Rule 6.302(G).

The Board believes that requiring that defendants be advised by the court of their ability to withdraw a plea and regarding the consequences of misconduct between plea acceptance and sentencing will help ensure that pleas are entered knowingly and fully informed. By requiring that this advice of rights occur before plea acceptance, the Board’s suggested amendment is intended to ensure that defendants are provided with the information required by ADM File No. 2022-59 at the most relevant and appropriate time in the proceeding. Waiting until after acceptance to advise a defendant of their right to withdraw a plea and, perhaps more importantly, of the consequences of misconduct undermines much of the value provided by the advice of rights.

Thank you for the opportunity to comment on the proposed amendment.

Sincerely,

Peter Cunningham
Executive Director

cc: Sarah Roth, Administrative Counsel, Michigan Supreme Court
Joseph P. McGill, President



December 23, 2024

Larry S. Royster
Clerk of the Court
Michigan Supreme Court
P.O. Box 30052
Lansing, MI 48909

RE: ADM File No. 2023-04: Proposed Amendments of Rules 7.212, 7.305, and 7.312 of the Michigan Court Rules

Dear Clerk Royster:

At its most recent meeting, the Board of Commissioners of the State Bar of Michigan considered ADM File No. 2023-04. In its review, the Board considered recommendations from the Access to Justice Policy Committee, Civil Procedure & Courts Committee, Criminal Jurisprudence & Practice Committee, Appellate Practice Section, Children’s Law Section, Criminal Law Section, and Family Law Section. The Board voted unanimously to support the proposed amendments of Rules 7.212, 7.305, and 7.312 with three further amendments:

1. eliminate the limit of 3,200 words proposed in Rule 7.305(F) and Rule 7.312(A)(2)(c);
2. replace “in support of or in opposition to” in Rule 7.305(F) with “in response to;” and
3. add tribal governments, the Legal Services Association of Michigan, the Michigan State Planning Body, and legal services programs that are annual grantees of the federal Legal Services Corporation or the Michigan State Bar Foundation to the list of those who are not required to file a motion for leave or receive an invitation to file an amicus brief in Rules 7.212 and 7.312.

The Bar appreciates the Court’s effort to improve amicus practice and remove unnecessary and duplicative procedures that currently impact parties who are frequently filing amicus briefs with the Court.

Thank you for the opportunity to comment on the proposed amendments.

Sincerely,



Peter Cunningham
Executive Director

cc: Sarah Roth, Administrative Counsel, Michigan Supreme Court
Joseph P. McGill, President



December 23, 2024

Larry S. Royster
Clerk of the Court
Michigan Supreme Court
P.O. Box 30052
Lansing, MI 48909

RE: ADM File No. 2023-07: Proposed Amendment of Rule 6.433 of the Michigan Court Rules

Dear Clerk Royster:

At its most recent meeting, the Board of Commissioners of the State Bar of Michigan considered ADM File No. 2023-07. In its review, the Board considered recommendations from the Access to Justice Policy Committee and Criminal Jurisprudence & Practice Committee. The Board voted unanimously to oppose the proposed amendment of Rule 6.433.

The Board is concerned that ADM File No. 2023-07 will have the unintended consequence of making it significantly more difficult for indigent defendants to obtain transcription of additional proceedings. These transcripts are often essential to a defendant's ability to pursue postconviction claims. For example, requiring a defendant to specifically explain to the court how each requested transcript will improve the defendant's chance of receiving postconviction relief overlooks a critical point: obtaining these transcripts is often a necessary for determining whether a meritorious claim exists and assessing the likelihood of success in such cases. The current rule, which requires a showing of good cause without additional prerequisites, is preferable and should be maintained.

Thank you for the opportunity to comment on the proposed amendment.

Sincerely,



Peter Cunningham
Executive Director

cc: Sarah Roth, Administrative Counsel, Michigan Supreme Court
Joseph P. McGill, President



December 23, 2024

Larry S. Royster
Clerk of the Court
Michigan Supreme Court
P.O. Box 30052
Lansing, MI 48909

RE: ADM File No. 2023-25: Proposed Amendment of Rule 1.6 of the Michigan Rules of Professional Conduct

Dear Clerk Royster:

At its most recent meeting, the Board of Commissioners of the State Bar of Michigan considered ADM File No. 2023-25. Although this proposal raises an issue of pressing importance to the legal profession, the Board ultimately voted to oppose the proposed amendment of Michigan Rule of Professional Conduct Rule 1.6 as published for comment. The Board supports the proposal in concept but thinks that rule can be improved and requests that the Court defer action so that an alternative can be proposed.

The Bar's Professional Ethics Committee is currently engaged in a thorough review of Rule 1.6 with the goal of drafting an alternative proposal on the issue of revealing client confidences related to the risk of self-harm. The Board requests that the Court defer action on ADM File No. 2023-25 so that it can consider the Professional Ethics Committee's alternative in short order.

Thank you for the opportunity to comment on the proposed amendment.

Sincerely,



Peter Cunningham
Executive Director

cc: Sarah Roth, Administrative Counsel, Michigan Supreme Court
Joseph P. McGill, President



To: Members of the Public Policy Committee
Board of Commissioners

From: Nathan A. Triplett, Director of Governmental Relations

Date: January 13, 2025

Re: 2024 Legislative Activity Summary

The 102nd Legislature adjourned on December 31, 2024 upon the expiration of the terms of office for State Representatives.¹ The 103rd Legislature convened on January 8, 2025.

During the 2023-2024 session, the Board of Commissioners (“Board”) adopted public policy positions on 78 unique bills and one concurrent resolution. As of this date, 28 bills supported by the State Bar of Michigan (“SBM”) have been signed into law. An additional five bills have been enrolled and presented to the Governor for her signature. Thirty-seven bills and one concurrent resolution supported by SBM died at the end of the legislative session. None of the seven bills opposed by SBM became law.

Below you will find a summary of notable legislative item from 2024. As always, a listing of all State Bar public policy positions on legislation can be found on the [SBM Public Policy Resource Center](#).

2024 Public Acts

In 2023, 18 bills supported by SBM were signed into law and previously reported to the Board. In 2024, an additional 10 bills were signed into law:

Treatment Court Participant Eligibility – 2024 PA 14 ([HB 4524](#)), 2024 PA 44 ([HB 4523](#)), and 2024 PA 45 ([HB 4525](#)) – This three-bill package reformed participant eligibility for certain problem-solving courts. HB 4523 and HB 4525 amended the Revised Judicature Act to allow a violent offender to participate in a mental health court or drug treatment court, respectively, with the consent of the judge and prosecutor and in consultation with any known victim. HB 4524 amended the Revised Judicature Act to permit a judge, with the agreement of the prosecutor, to allow a drug treatment court participant to continue in the program after being convicted of a felony for an offense that occurred after admission to the treatment court.

Family Treatment Courts – 2024 PA 15 ([HB 4522](#)) – This bill authorized circuit courts to adopt or institute family treatment courts.

¹ The House was unable to muster a quorum to conduct legislative business after December 13 and therefore unable to pass the constitutionally required concurrent resolution determining a date for *sine die* adjournment.

Trial Court Funding – 2024 PA 38 ([HB 5392](#)) and 2024 PA 47 ([HB 5534](#)) – HB 5392 extended the sunset on legislative authorization for courts to impose certain court costs on criminal defendants under MCL 769.1k(1)(b)(iii) until December 31, 2026. HB 5534 directed the State Court Administrative Office to undertake the trial court funding analysis necessary to create the Court Operations Resource Report recommended by the Trial Court Funding Commission and to develop draft trial court funding reform legislation by May 1, 2026.

Consent Calendar Technical Fix – 2024 PA 123 ([HB 5393](#)) – This bill corrected a technical error impacting consent calendars that resulted from the order in which the Governor signed two of 19 bills in the Justice for Kids & Communities legislative package into law in December 2023.

Court-Appointed Special Advocate (“CASA”) Act – 2024 PA 124 ([HB 5429](#)) – This bill created the Court-Appointed Special Advocate Act to authorize courts to establish CASA programs that provide volunteers charged with advocating for a child’s best interests in a proceeding brought under either Section 2 or Section 19b of Chapter XIIA of the Probate Code. The new act specifies minimum requirements for a CASA program, qualifications and duties for CASA volunteers, and CASA appointment procedures and standards of conduct.

Virtual Tax Tribunal Proceedings – 2024 PA 129 ([SB 150](#)) – This bill amended the Tax Tribunal Act to allow the Residential Property & Small Claims Division of the Michigan Tax Tribunal to conduct hearings and re-hearings telephonically, by videoconferencing, or in person.

Courtroom Support Dogs – 2024 PA 182 ([SB 248](#)) – This bill amended the Revised Judicature Act to change the age (from under 16 to under 18) of child witnesses who are allowed to be accompanied by a courtroom support dog when testifying. It also allows a dog trained and certified as a therapy dog by a therapy dog organization in Michigan that is recognized by the American Kennel Club to serve as a courtroom support dog.

Bills Awaiting Governor’s Signature

Five SBM-supported bills were presented to the Governor for her signature, and we expect that she will ultimately sign all five into law. The bills were each presented on January 8. The Governor therefore has until January 22 to sign, veto, or pocket veto the bills.

Michigan Sentencing Commission – [HB 4173](#) and [HB 4384](#) – Taken together, these bills will reestablish a Michigan Sentencing Commission and prescribe its duties.

Transcript Fees – [HB 5046](#) – This bill will adjust circuit court reporters and recorders fees for original transcripts and copies for the first time since 1986. SBM was neutral on the bill, because it does not provide a fee waiver for indigent individuals or those represented by pro bono counsel.

Court of Appeals Bar Admission Jurisdiction – [HB 5204](#) – This bill will expand the jurisdiction of the Court of Appeals to include admitting individuals who possess the required qualifications to the State Bar of Michigan.

Name Change Petitions – [HB 5300](#) – This bill will update antiquated provisions of the Probate Code related to name change proceedings. Among other things, the bill will implement an earlier SBM recommendation that good cause for nonpublication be presumed when the petitioner is a victim of an assaultive crime, domestic violence, harassment, human trafficking, stalking, or is seeking to affirm their gender identity.

Priorities for 2025

Three SBM-supported bills that did not ultimately make it to the Governor’s desk are of note and are priorities for the State Bar in 2025.

Indigent Juvenile Defense (HB 4630)

[HB 4630](#) would have authorized the Michigan Indigent Defense Commission to develop and implement minimum standards for juvenile indigent defense. It was the only piece of a 20-bill Justice for Kids & Communities package that did not make it to the Governor’s desk at the end of 2023. Instead, the State Senate held the bill on third reading for over a year, until finally approving the legislation on December 12, 2024. Unfortunately, the Senate also made an unnecessary amendment to the effective date of the legislation. Instead of sending the bill to the Governor for her signature, this amendment forced the bill back to the House for a concurrence vote. The Senate was persuaded to request return of the bill from the House, but because the House never established a quorum after December 13, it was unable to either concur in the Senate amendment or grant return. As a result, the bill died at the end of the session. Work is already underway to see that this legislation is reintroduced and passed early in the 103rd Legislature.

Judicial Protection Act (“JPA”) (HB 5724)

[HB 5724](#) would have allowed state judges and their immediate family to protect certain personal identifying information from public disclosure by public bodies and private persons. The House approved the JPA in June 2024. The State Bar then spent the next four months working with stakeholders (e.g., Michigan Association of Registers of Deeds and Consumer Data Industry Association) to address their concerns with the legislation as introduced. This effort resulted in a substitute bill, which was approved by the Senate on December 10, 2024. The bill was returned to the House for concurrence with the Senate amendments. Unfortunately, because the House never established a quorum after December 13, the bill died at the end of the session. Work is already underway to see that this legislation is reintroduced and passed early in the 103rd Legislature.

Michigan Supreme Court Salaries (HCR 6)

In 2023, the State Officers Compensation (“SOCC”) recommended that Michigan Supreme Court Justices receive a 7% increase, effective January 1, 2025, to \$194,187 and a subsequent increase of 7%, effective January 1, 2026, to \$207,780. [House Concurrent Resolution 6](#)

would have approved this SOCC recommendation. While the HCR was approved by the House, the Senate never approved the concurrent resolution, and it died at the end of the session. The process will begin anew with the 2025 SOCC recommendation.

Other Lame Duck Legislation

Other SBM-supported bills that saw legislative action during the lame duck session, but ultimately failed to make it to the Governor's desk included:

- [HB 5431](#) (amending the Wrongful Imprisonment Compensation Act),
- [HB 5271](#) (expanding access to post-conviction DNA testing),
- [HB 5788](#) (adopting the Uniform Public Expression Protection Act),
- [HB 5882](#) and [HB 5883](#) (authorizing electronic notarization and witnessing), and
- [SB 688](#) (permitting juvenile justice data sharing for research purposes).

Overruling *Jack* and *Antaramian*

While most of the bills opposed by SBM this session saw little legislative action during 2023-2024, legislation to overturn the Court of Appeals' holdings in *People v Jack* and *People v Antaramian* ([HB 4738](#) and [HB 4739](#)) passed in October 2023. Working alongside others opposed to this legislation, SBM kept the bills in the Senate Civil Rights, Judiciary & Public Safety Committee for over a year, and the bills ultimately died at the end of the session.

Order

Michigan Supreme Court
Lansing, Michigan

October 23, 2024

Elizabeth T. Clement,
Chief Justice

ADM File No. 2024-03

Brian K. Zahra

David F. Viviano

Proposed Amendment of
Rule 2.003 of the Michigan
Court Rules

Richard H. Bernstein

Megan K. Cavanagh

Elizabeth M. Welch

Kyra H. Bolden,

Justices

On order of the Court, this is to advise that the Court is considering an amendment of Rule 2.003 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 each public hearing are posted on the [Public Administrative Hearings](#) 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 2.003 Disqualification of Judge

(A)-(C) [Unchanged.]

(D) Procedure.

(1)-(3) [Unchanged.]

(4) If Disqualification Motion is Granted.

(a) For courts other than the Supreme Court, when a judge who is not a business court judge is disqualified, the action must be assigned to another judge of the same court, or, if one is not available, the state court administrator ~~must~~shall assign another judge.

(b) When a judge who is a business court judge is disqualified, the action must be assigned to another business court judge of the same circuit,

or if one is not available, the state court administrator must assign a business court judge from a different circuit.

(b) [Relettered as (c) but otherwise unchanged.]

(E) [Unchanged.]

Staff Comment (ADM File No. 2024-03): The proposed amendment of MCR 2.003 would clarify the assignment procedures when a business court judge has been disqualified from a 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 submitted by February 1, 2025 by clicking on the “Comment on this Proposal” link under this proposal on the [Court’s Proposed & Adopted Orders on Administrative Matters](#) page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at ADMcomment@courts.mi.gov. When submitting a comment, please refer to ADM File No. 2024-03. Your comments and the comments of others will be posted under the chapter affected by this proposal.



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.

October 23, 2024

Handwritten signature of Larry S. Royster in black ink.

Clerk

Public Policy Position
ADM File No. 2024-03: Proposed Amendment of MCR 2.003

Oppose

Explanation

The Committee voted to oppose the proposed amendment of MCR 2.003, because we deem the parties' venue (per statute and court rule) to be more important, and more conducive to the administration of justice, than the necessity of being before a business court judge, even if that means transfer to another county.

Instead, the Committee believes that the Court should adopt a rule that provides for reassignment to another civil judge in the same circuit, in which case that assigned judge, for that matter, is deemed a business court judge. Such an amendment would ensure that reassignment does not invertedly create a jurisdictional defect in the matter, as MCL 600.8035 vests business courts with jurisdiction "over business and commercial disputes in which equitable or declaratory relief is sought or in which the matter otherwise meets circuit court jurisdictional requirements."

Position Vote:

Voted For position: 20

Voted against position: 2

Abstained from vote: 1

Did not vote (absence): 5

Contact Person:

Marla Linderman Richelew mrichelew@gmail.com

Name: Michael Yelsik

Date: 11/04/2024

ADM File Number: 2024-03

Comment:

While reassignments to another business court judge may help, the administrative issues it creates will far outweigh the benefits. Prior to the existence of business courts, cases were assigned by random draw to another judge in the case circuit and this worked. To assign these cases out of county will create numerous issues to administrate. While today's technology can resolve many of the perceived issues, the trial would have to be held where the case was filed. This involves making sure there is a courtroom available, having proper staff to assist, and numerous other issues. While it may help with some consistency, the administrative complications are high when dealing with cases being assigned ot out of county judges to handle. Thank you for your time and consideration.

From: [Joyce Draganchuk](#)
To: [ADMcomment](#)
Subject: comment on proposed amendment of MCR 2.003
Date: Thursday, October 24, 2024 1:00:34 PM

I think the amendment is fine but it just doesn't address another important consideration. Sometimes the judge who dq's is not a business court judge but the case is a business court case. This happens when (1) the county where the case was filed does not have a business court, or (2) the county where the case was filed does have a business court but the case was never assigned to business court. Situation (2) occurs because either nobody ever caught the omission or different judges have different interpretations of business court eligibility. SCAO reassigns it to a non-business court judge in another county. Their position is that if it was not designated as business court in the county it came from they will not reassign it to the business court judge in the receiving county. There could be an additional sentence added on to (b) that could say something like: If the action meets the requirements for business court eligibility and it is being assigned to a different circuit, it must be assigned to a business court judge.

Judge Joyce Draganchuk

Chief Judge, 30th Circuit Court
P.O. Box 40771
Lansing, MI 48901-7971
(517) 483-6432

Order

Michigan Supreme Court
Lansing, Michigan

October 30, 2024

Elizabeth T. Clement,
Chief Justice

ADM File No. 2022-08

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Megan K. Cavanagh
Elizabeth M. Welch
Kyra H. Bolden,
Justices

Proposed Amendment of
Rule 7.206 of the Michigan
Court Rules

On order of the Court, this is to advise that the Court is considering an amendment of Rule 7.206 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 each public hearing are posted on the [Public Administrative Hearings](#) 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 7.206 Extraordinary Writs, Original Actions, and Enforcement Actions

(A)-(F) [Unchanged.]

(G) Petition for Review or Extension of Time for County Apportionment Plan.

(1) Petition. To obtain review of an apportionment plan as provided in MCL 45.505(5) or 46.406, or to obtain an extension of time to submit an apportionment plan under MCL 45.505(5) or 46.407, the petitioner must file with the clerk within the time limit provided by law:

(a) a petition concisely stating the basis for relief and the relief sought;

(b) a copy of the apportionment plan;

(c) as may be applicable, a sworn statement from a qualified expert attesting to the expert's opinion as to the factual basis for the petitioner's claim that the challenged apportionment plan violates the law;

- (d) a supporting brief conforming to MCR 7.212(B) and (C) to the extent possible;
 - (e) proof that a copy of each of the filed documents was served on the respondent, the county commission, and any other interested party; and
 - (f) the entry fee.
- (2) Answer. A respondent or any other interested party must file with the clerk within 21 days of service of the petition:
- (a) an answer to the petition;
 - (b) a supporting brief conforming to MCR 7.212(B) and (D) to the extent possible; and
 - (c) proof that a copy of each of the filed documents was served on the petitioner, the county commission, and any other interested party.
- (3) Preliminary Hearing. There is no oral argument on preliminary hearing of a petition. The court may deny relief, grant preemptory relief, or allow the parties to proceed to full hearing on the merits in the same manner as an appeal of right. However, if the preliminary hearing on the complaint shows that either party's pleadings or briefs demonstrate that a genuine issue of material fact exists that must be determined before a resolution can be reached as to whether the reapportionment violates the law, or that there is a need for discovery and the development of a factual record, the court must proceed to full hearing on the merits in the same manner as an appeal of right. If the court must proceed to full hearing under this subrule, the panel must first refer the suit to a judicial circuit to hold pretrial proceedings, conduct a hearing to receive evidence and arguments of law, and issue a written report for the panel setting forth proposed findings of fact and conclusions of law. The proceedings before the circuit court must proceed as expeditiously as due consideration of the circuit court's docket, facts, and issues of law requires. Following receipt of the circuit court's report, the court of appeals clerk must certify the order allowing the case to proceed and notify the parties of the schedule for filing briefs in response to the circuit court's report and of the date for oral argument, which must be on an expedited basis.
- (4) Full Hearing. If the case is ordered to proceed to full hearing,

- (a) the time for filing a brief by the petitioner begins to run from the date the clerk certifies the order allowing the case to proceed;
- (b) the petitioner’s brief must conform to MCR 7.212(B) and (C); and
- (c) an opposing brief must conform to MCR 7.212(B) and (D).

Staff Comment (ADM File No. 2022-08): The proposed amendment of MCR 7.206 would require the Court of Appeals to engage in certain procedures if it receives a county reapportionment challenge.

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 submitted by February 1, 2025 by clicking on the “Comment on this Proposal” link under this proposal on the [Court’s Proposed & Adopted Orders on Administrative Matters](#) page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at ADMcomment@courts.mi.gov. When submitting a comment, please refer to ADM File No. 2022-08. Your comments and the comments of others will be posted under the chapter affected by this proposal.



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.

October 30, 2024

A handwritten signature in black ink, appearing to read "Larry S. Royster".

Clerk

Public Policy Position
ADM File No. 2022-08: Proposed Amendment of MCR 7.206

No Position

Explanation

The Committee considered the proposed amendment of MCR 7.206, but voted to take no position on the matter.

Position Vote:

Voted For position: 22

Voted against position: 0

Abstained from vote: 0

Did not vote (absence): 6

Contact Person:

Marla Linderman Richelew mrichelew@gmail.com

Order

Michigan Supreme Court
Lansing, Michigan

October 30, 2024

Elizabeth T. Clement,
Chief Justice

ADM File No. 2022-23

Proposed Amendment of
Rule 7.306 of the Michigan
Court Rules

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Megan K. Cavanagh
Elizabeth M. Welch
Kyra H. Bolden,
Justices

On order of the Court, this is to advise that the Court is considering an amendment of Rule 7.306 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 each public hearing are posted on the [Public Administrative Hearings](#) 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 7.306 Original Proceedings

(A)-(C) [Unchanged.]

(D) What to File. Service provided under this subrule must be verified by the clerk. ~~To initiate an original proceeding, a plaintiff must file with the clerk all of the following:~~

(1) A plaintiff invoking the Supreme Court's original jurisdiction under Const 1963, art 4, § 6(19) must file with the clerk all of the following:

(a) 1 signed copy of a complaint that

(i) sets forth with particularity the factual basis for the challenge to the commission's plan;

(ii) indicates whether any factual questions or disputes are anticipated that will require resolution by the Supreme Court;

- (iii) states whether the plaintiff anticipates the need for discovery and the development of a factual record;
 - (iv) attaches documents that provide factual support for the complaint, including, as may be applicable, a sworn statement from a qualified expert attesting to the expert's opinion as to the factual basis for the plaintiff's claim that the commission's plan violates the law;
 - (v) identifies all statutes involved in the case; and
 - (vi) provides legal arguments in support of the complaint, with citations to legal authority. There is no expectation that copies of court rules, statutes, or caselaw be appended to the complaint.
- (b) 1 signed copy of a brief conforming as nearly as possible to MCR 7.212(B) and (C).
- (c) Proof that the complaint and brief were served on the defendant. Service of a copy of the complaint and brief shall be made on any of the following persons:
- (i) the chairperson of the Independent Citizens Redistricting Commission,
 - (ii) the secretary of the Independent Citizens Redistricting Commission, or
 - (iii) an individual designated by the Independent Citizens Redistricting Commission or Secretary of State as a person to receive service.
- (d) The fees provided by MCR 7.319(C)(1) and MCL 600.1986(1)(a).
- (2) In all other original actions, a plaintiff must file with the clerk all of the following:
- (1)-(2) [Relettered as (a)-(b) but otherwise unchanged.]
 - (c3) Proof that the complaint and brief were served on the defendant, and
 - (a) [Relettered as (i) but otherwise unchanged.]

(b) ~~for purposes of a complaint filed under Const 1963, art 4, § 6(19), service of a copy of the complaint and brief shall be made on any of the following persons:~~

(i) ~~the chairperson of the Independent Citizens Redistricting Commission,~~

(ii) ~~the secretary of the Independent Citizens Redistricting Commission, or~~

(iii) ~~upon an individual designated by the Independent Citizens Redistricting Commission or Secretary of State as a person to receive service.~~

(c)-(d) [Relettered as (ii)-(iii) but otherwise unchanged.]

(4) [Relettered as (d) but otherwise unchanged.]

Copies of relevant documents, record evidence, or supporting affidavits may be attached as exhibits to the complaint.

(E) Answer.

(1) A defendant in an action filed under Const 1963, art 4, § 6(19) must file the following with the clerk within 7 days after service of the complaint and supporting brief, unless the Court directs otherwise:

(a) 1 signed copy of an answer to the complaint that~~in conformity with MCR 2.111(C);~~

(i) sets forth with particularity the factual basis for the challenge to or support for the commission's plan,

(ii) states whether any factual questions or disputes are anticipated that will require resolution by the Supreme Court,

(iii) states whether the defendant anticipates the need for discovery and the development of a factual record,

(iv) attaches documents that provide factual support for the answer,

(v) identifies all statutes involved in the case, and

(vi) provides legal arguments in support of the answer, with citations to legal authority. There is no expectation that copies of court rules, statutes, or caselaw be appended to the answer.

(b)-(c) [Unchanged.]

(2)-(4)[Unchanged.]

(F)-(J) [Unchanged.]

(K) Appointment of Master. In a case that invokes the Court's original jurisdiction under Const 1963, art 4, § 6(19), the Court may appoint a master as provided in this subrule.

(1) Appointment. The Court may appoint a master to conduct an evidentiary hearing if the party's pleadings or briefs demonstrate that a genuine issue of material fact exists that must be determined before a resolution can be reached as to whether the commission violated the law, or that there is a need for discovery and the development of a factual record.

(a) Upon appointment, the master must set a time and a place for the hearing and notify the parties at least 28 days in advance.

(b) The master must rule on all motions and other procedural matters incident to the pleadings and hearing.

(c) Recommendations on dispositive motions shall not be announced until the conclusion of the hearing, except that the master may refer to the Court on an interlocutory basis a recommendation regarding a dispositive motion.

(d) The master may conduct one or more pretrial conferences and may order a prehearing conference to obtain admissions or otherwise narrow the issues presented by the pleadings.

(e) Unless the parties agree to waive them, closing arguments at the hearing before the master shall be oral and take place upon conclusion of the presentation of evidence.

(f) The master may not adjourn or postpone closing arguments for the preparation of a transcript or the submission of proposed findings of fact.

(g) MCR 2.003(B) shall govern all matters concerning the disqualification of a master.

(2) Discovery.

(a) The master may enter all pretrial orders permitted by the rules of civil procedure, including those controlling the extent and scope of discovery under MCR 2.302. However, the Court may limit or define the scope of the master's authority by order.

(b) Parties must engage in the following pretrial or discovery proceedings:

(i) At least 21 days before a scheduled public hearing, the parties shall provide to one another, in writing, the names and addresses of all persons whom they intend to call at the hearing, a copy of all statements and affidavits given by those persons, and any material in their possession that they intend to introduce as evidence at the hearing.

(ii) The parties shall give supplemental notice to one another within 5 days after any additional witness or material has been identified and at least 10 days before a scheduled hearing.

(c) A deposition of a witness who is living outside the state or who is unable to attend a hearing may be taken by videoconferencing or telephone, or otherwise as allowed for good cause shown.

(d) If a party fails to comply with subrules (K)(2)(a) or (b), the master may, on motion and showing of material prejudice as a result of the failure, impose one or more of the sanctions set forth in MCR 2.313(B)(2)(a)-(e).

(3) Subpoenas.

(a) Issuance of Subpoenas. The attorneys may issue subpoenas for the attendance of witnesses or the production of documents or other tangible evidence.

(b) Sanctions for Contempt; Disobedience by Party.

- (i) Contempt proceedings against a nonparty for failure to obey a subpoena issued pursuant to this rule may be brought pursuant to MCR 2.506(E) in the circuit court for the county in which the individual resides, in which the individual is found, in which the contempt occurred, or in which the hearing is to be held.
 - (ii) If a party disobeys a subpoena or other lawful order of the master, whether before or during the hearing, the commission or the master may order such sanctions as are just, including, but not limited to, those set forth in MCR 2.313(B)(2)(a)-(e).
- (4) Hearing.
 - (a) Procedure. The public hearing must conform as nearly as possible to the rules of procedure and evidence governing the trial of civil actions in the circuit court. The plaintiff must present the evidence in support of its challenge to the redistricting plan and at all times has the burden of proving the allegations by a preponderance of the evidence. Any witness who testifies at the hearing is subject to cross-examination by either party as an opposite party under MCL 600.2161.
 - (b) Effect of Failure to Comply.
 - (i) If the defendant is in default for not having filed a timely answer or fails to attend the proceedings without being excused by the master, the allegations set forth in the complaint shall be deemed admitted, taken as true, and may form the basis for the master to make findings of fact.
 - (ii) Record. The proceedings at the hearing must be recorded by stenographic or mechanical means. If the master declines to admit evidence, a separate record must be made so that the Court may consider that evidence and determine whether to include it in the record.
- (5) Report. The court reporter must prepare a transcript of the proceedings conducted before the master within 21 days of the conclusion of the hearing, filing the original with the Court, and serving a copy on the parties, by e-mail. Within 21 days after a transcript of the proceedings is provided, the master must prepare and transmit to the Court a report that contains a brief

statement of the proceedings and findings of fact and conclusions of law with respect to the issues presented in the pleadings.

- (6) Objections to Report. Within 14 days after the master’s report is received, the parties may file with the Court 1 signed copy of a brief in conformity with MCR 7.312 that is limited to objecting to findings or omissions in the report.
- (7) Appearance Before Court. When the hearing before the master has concluded, the Court may set a date for hearing objections to the master’s report upon the motion of a party or on the Court’s own motion.
- (8) Timing. For good cause shown, the timing required by subrules (K)(1)-(7) may be modified.

(K) [Relettered as (L) but otherwise unchanged.]

~~(M)~~ Decision. The Court may set the case for argument as a calendar case, grant or deny the relief requested, or provide other relief that it deems appropriate, including an order to show cause why the relief sought in the complaint should not be granted. If a master was appointed under subrule (K), the Court may adopt the findings of the master, in whole or in part, by reference. To have conclusive effect in an action for judicial review under MCL 168.46, the Court’s final order must be issued no later than 4 p.m. the day before the electors for President and Vice President of the United States convene under MCL 168.47. To have conclusive effect in an action for judicial review under MCL 168.845a, the Court’s final order must be issued no later than the day before the electors for President and Vice President of the United States convene under MCL 168.47.

Staff Comment (ADM File No. 2022-23): The proposed amendment of MCR 7.306 would facilitate factual development in statewide redistricting cases.

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 submitted by February 1, 2025 by clicking on the “Comment on this Proposal” link under this proposal on the [Court’s Proposed & Adopted Orders on Administrative Matters](#) page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at ADMcomment@courts.mi.gov. When

submitting a comment, please refer to ADM File No. 2022-23. Your comments and the comments of others will be posted under the chapter affected by this proposal.



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.

October 30, 2024

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

Clerk

Public Policy Position
ADM File No. 2022-23: Proposed Amendment of MCR 7.306

Support

Explanation

The Committee voted to support the proposed amendment of MCR 7.306. The Committee believed that greater specificity regarding the procedures required when invoking the Supreme Court's original jurisdiction over statewide redistricting cases will assist the Court, counsel, and parties attempting to file such actions pro se.

Position Vote:

Voted For position: 17

Voted against position: 0

Abstained from vote: 5

Did not vote (absence): 6

Contact Person:

Marla Linderman Richelew mrichelew@gmail.com

Order

Michigan Supreme Court
Lansing, Michigan

October 30, 2024

Elizabeth T. Clement,
Chief Justice

ADM File No. 2022-48

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Megan K. Cavanagh
Elizabeth M. Welch
Kyra H. Bolden,
Justices

Proposed Amendment of
Canon 3 of the Michigan
Code of Judicial Conduct

On order of the Court, this is to advise that the Court is considering an amendment of Canon 3 of the Michigan Code of Judicial Conduct. 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 each public hearing are posted on the [Public Administrative Hearings](#) 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.]

Canon 3. A Judge Should Perform the Duties of Office Impartially and Diligently.

The judicial duties of a judge take precedence over all other activities. Judicial duties include all the duties of office prescribed by law. In the performance of these duties, the following standards apply:

A. Adjudicative Responsibilities:

(1)-(3) [Unchanged.]

(4) A judge may make reasonable efforts, consistent with the law and court rules, to facilitate the ability of all litigants, including self-represented litigants, to be fairly heard.

(4)-(14) [Renumbered as (5)-(15) but otherwise unchanged.]

B.-D. [Unchanged.]

Staff Comment (ADM File No. 2022-48): The proposed amendment of MCJC 3 would allow a judge to make reasonable efforts to facilitate the ability of all litigants to be fairly heard.

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 submitted by February 1, 2025 by clicking on the “Comment on this Proposal” link under this proposal on the [Court’s Proposed & Adopted Orders on Administrative Matters](#) page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at ADMcomment@courts.mi.gov. When submitting a comment, please refer to ADM File No. 2022-48. Your comments and the comments of others will be posted under the chapter affected by this proposal.



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.

October 30, 2024

Handwritten signature of Larry S. Royster in black ink.

Clerk

Public Policy Position
ADM File No. 2022-48: Proposed Amendment of MCJC 3

Support with Recommended Amendments

Explanation

The Committee voted unanimously (17) to support the proposed amendment of Canon 3 with two further amendments:

- The Committee recommends that “may” be changed to “should”. From an access to justice standpoint, many would advocate to change “may” to “shall”. However, the Committee anticipates the possibility of significant opposition to this amendment as a new approach that will take time to fully implement, especially within the context of extensive court rules, and a mandatory rule would not likely be supported. Using the word “should” streamlines the language to that of other Canons and expresses that providing every party with the opportunity to be heard as they want to be heard is an ideal that reflects the values of our justice system, builds trust in our justice system, provides meaningful access to justice to all individuals regardless of whether they can afford an attorney, and promotes the empowerment and respect of all.

- The Committee recommends the addition of “at any phase of a case” to the end of (4).

Position Vote:

Voted For position: 17

Voted against position: 0

Abstained from vote: 0

Did not vote (absence): 7

Contact Persons:

Daniel S. Korobkin dkorobkin@aclumich.org

Katherine L. Marcuz kmarcuz@sado.org

Public Policy Position
ADM File No. 2022-48: Proposed Amendment of MCJC 3

Support with Recommended Amendments

Explanation:

The Committee voted unanimously to support the proposed amendment of Canon 3 with two further amendments:

- The Committee supported the Access to Justice Policy Committee recommendation that “may” be changed to “should”.
- The Committee also supported the addition of the proposed explanatory comment recommended by the Judicial Ethics Committee.

Position Vote:

Voted For position: 20

Voted against position: 0

Abstained from vote: 0

Did not vote (absent): 6

Contact Persons:

Nimish R. Ganatra ganatran@washtenaw.org

John A. Shea jashea@earthlink.net

Public Policy Position
ADM File No. 2022-48: Proposed Amendment of MCJC 3

Oppose as Drafted

Explanation

The Committee voted to adopt the position of the Judicial Ethics Committee on the proposed amendment of Canon 3.

Position Vote:

Voted For position: 15

Voted against position: 2

Abstained from vote: 7

Did not vote (absence): 4

Contact Person:

Marla Linderman Richelew mrichelew@gmail.com

Public Policy Position
ADM File No. 2022-48: Proposed Amendment of MCJC 3

Oppose as Drafted

Explanation

The Judicial Ethics Committee is sensitive to the requirement for judicial officers to facilitate the rights of all litigants to be fairly heard but the proposed amendment is too vague and, without further clarification, could lead to misunderstandings regarding the duties of the judicial officer.

The Committee expresses its concern that the proposal provides no guidance regarding what steps may be taken to assist a self-represented litigant without violating the rights of the represented party.

As the rule states that “a judge may make reasonable efforts,” without a directive to do so, thus rule is not enforceable by the Judicial Tenure Commission. So, the information is better included in a comment, which is not authoritative, but provides guidance.

Therefore, the Judicial Ethics Committee opposes the Canon as drafted and recommends inclusion of explanatory comment to Canon 3, rather than an amendment to the Canon. Alternatively, if the Michigan Supreme Court codifies this proposed Canon, the Committee recommends including an elucidatory comment as proposed herein.

Analysis

The National Center for State Courts, Center for Judicial Ethics published *Self-Represented Litigants and the Code of Judicial Conduct* in May 2019.¹ As of the date of publication, of the thirty-five jurisdictions that enacted some version of the comment, only 16 adopted the comment without modification or minor modification. Eight jurisdictions modified the comment extensively to provide clarity.

Importantly, all eight jurisdictions that codified the proposed amendment, or a version thereof, include clarifying comments as proposed herein.

Moreover, the proposed amendment is discretionary, thus aspirational, as it only states that a judge “may make reasonable efforts.” As the proposed amendment is not a directive, but guidance, it is better placed in the comments to Canon 3.

Proposed Comment:

The judge has an affirmative role in facilitating the ability of every person who has a legal interest in a proceeding to be fairly heard. In the interest of ensuring fairness and access to justice, judges may make reasonable accommodations that help self-represented litigants to understand the proceedings and applicable procedural requirements, secure legal assistance, and be heard according to law. The

¹ https://www.ncsc.org/_data/assets/pdf_file/0030/15798/proselitigantsjan2016.pdf

judge should be careful that accommodations do not give self-represented litigants an unfair advantage or create an appearance of judicial partiality. In some circumstances, particular accommodations for self-represented litigants are required by decisional or other law. In other circumstances, potential accommodations are within the judge's discretion.

Reasonable steps that a judge may take in the exercise of such discretion include, but are not limited to:

1. Construe pleadings to facilitate consideration of the issues raised.
2. Provide brief information or explanation about the proceedings.
3. Explain legal concepts in everyday language.
4. Ask neutral questions to elicit or clarify information.
5. Modify the traditional manner or order of taking evidence.
6. Attempt to make legal concepts understandable.
7. Explain the basis for a ruling.
8. Refer litigants to any resources available to assist in the preparation of the case or enforcement and compliance with any order.
9. Inform litigants what will be happening next in the case and what is expected of them.

The Judicial Ethics Committee encourages the Michigan Supreme Court to include an illustrative comment regarding a judicial officer's ability to assist self-represented litigants.

Position Vote:

Voted For position: 8

Voted against position: 0

Abstained from vote: 0

Did not vote (absent from meeting): 0

Contact Person:

Judge Terry Clark d70-6@saginawcounty.com

Name: Maria L. Hoebeke

Date: 11/20/2024

ADM File Number: 2022-48

Comment:

I'm not sure how anyone can have an opinion on this without some examples of practical applications. Clearly someone had an idea in their head when it was suggested. As written, it seems to just broaden that 'discretion' umbrella. The interpretations and applications seem endless....and a nightmare.

To: Members of the Public Policy Committee
Board of Commissioners

From: Nathan A. Triplett, Director of Governmental Relations

Date: January 13, 2025

Re: Judicial Protection Act Reintroduction – 103rd Legislature

Background

In May 2024, the Board of Commissioners voted to support House Bill 5724¹—the Judicial Protection Act (“JPA”)². The House approved the JPA by a bipartisan vote of 81-27 in June 2024. The State Bar then spent the next four months working with stakeholders (e.g., Michigan Association of Registers of Deeds and Consumer Data Industry Association) to address their concerns with the legislation as introduced. This effort resulted in a substitute bill, which was reported favorably by the Senate Civil Rights, Judiciary & Public Safety Committee toward the end of October 2024. The full Senate approved HB 5724 S-3, by a bipartisan vote of 23-14 on December 10, and the bill was returned to the House for concurrence with the Senate amendments. Unfortunately, the House was unable to establish a quorum during the lame duck session and adjourned. As a result, HB 5724 was never given final approval and died at the conclusion of the 102nd Legislature on December 31.

It is anticipated that the Judicial Protection Act will be reintroduced in the 103rd Legislature with language identical to that which passed the Senate in December 2024. Because the bill language is substantively different than what was considered by the Board of Commissioners last May, the new language is being presented to the Board for its consideration. Additionally, it is likely that the JPA will be introduced, and perhaps acted upon, early in the new Legislature. Staff is recommending that

¹ In April 2022, the Public Policy Committee reviewed a proposed Judicial Protection Act (2022 SB 869). The Committee determined that the legislation was *Keller*-permissible, but recommended that the Board defer action on a substantive public policy position until feedback could be gathered from the Judicial Section Council or, alternatively, the other associations representing the interests of Michigan judges. Inquiries into such feedback resulted in the formation of a workgroup composed of a number of state and federal judges aimed at developing a Judicial Protection Act bill that the judicial associations would all support. The State Court Administrative Office (“SCAO”) and Chief Justice were also consulted in that process. House Bill 5724 was the result of the workgroup’s efforts and those consultations.

² The Judicial Protection Act seeks to address a significant uptick in threats against judges and their families by protecting their personal identifying information from disclosure. It is argued that the readily available personal information of judges on the internet and the ease with which such information can be shared through social media puts judges at a unique risk every time they issue a decision that may be controversial or unpopular. While state-level data on threats to judicial officers is unavailable, the U.S. Marshals Service reported that serious threats to federal judges have more than doubled over the past three years from 224 in FY 2021 to 457 in FY 2023.

While a number of states have passed judicial security legislation, action at the federal level is particularly notable. In July 2020, a disgruntled former litigant searched for and found U.S. District Court Judge Esther Salas’ personal information on the internet. He then went to Judge Salas’ home posing as a deliveryman, fatally shot her twenty-year-old son, Daniel, and critically wounded her husband. The attack focused congressional attention and energy. Congress passed, and President Biden signed into law, the Daniel Aderl Judicial Security and Privacy Act in December 2022. In short, the bill prohibits federal agencies and private businesses from publicly posting personal information of federal judges and their immediate family members and protects such information from resale by data brokers. No such protection currently exists today for state-level judges in Michigan.

the Board review the anticipated bill language at its January meeting and consider adopting a public policy position on that language to guide staff's engagement in any early legislative activity surrounding the JPA. An e-vote would then be conducted after the legislation is introduced.

The Judicial Protection Act aims implement the federal Daniel Anderl Judicial Security and Privacy Act at the state level and provide protection comparable to the federal law to state court judges. The legislation provides a judge and their immediate family members the right to have certain "personal identifying information" removed from public and private websites and other public postings. At the same time, the bill permits disclosure of certain personal information relevant to elections, news stories, and other speech on matters of public concern, as well as voluntarily disclosed information. A judge could request that personal identifying information be removed on their own initiative, or they may delegate this authority to SCAO. The legislation also creates a private right of action to enforce the rights and duties set form in the act.

The Senate substitute (S-3), which will be reintroduced in the 103rd Legislature, contains a number of substantive differences from the JPA as originally introduced. The substitute:

- Defines "publicly post or display" as "to communicate or otherwise make personal identifying information available to the general public." (Page 4, Lines 6-8)
- Defines "transfer" as "to sell, license, trade, or exchange for consideration the personal identifying information of a judge or judge's immediate family member." (Page 4, Lines 13-15)
- Uses the term "personal identifying information" consistently throughout the bill. As introduced, the bill used other terms like "personal information," "covered information," or just "information" interchangeably.
- Amends Sec. 3(2) to strike "prevent disclosure of" (because it was vague and undefined) and the requirement that the form developed by SCAO itself include "information on the appropriate methods to provide the form to a public body or person" (because this was impractical given that the method will vary significantly between various public bodies and private persons). (Page 4, Lines 17-19 of HB 5724 as introduced)
- Rewords Sec. 3(3) from "permission to allow the public body or person to release some or all of the covered information" to "request to rescind or modify the prior request" for clarity. (Page 4, Line 29 to Page 5, Line 1)
- Adds Sec. 3(6) to require that "[a] written request provided to the office of the county register of deeds must include a list of all instruments to be protected by liber and page or other unique identifying number." (Page 5, Lines 12-14)
- Adds Sec. 4(3) to provide that "[a] public body may comply with the requirements of this section by redacting the specified personal identifying information that is publicly posted or displayed or by masking the entire contents of a document or record that contains the specified personal identifying information. The section does not alter or amend a public body's obligations under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246." (Page 6, Lines 3-9)
- Adds twelve exceptions to the JPA in Sec. 5(c)-(l) (Page 6, Line 18 to Page 8, Line 11):
 - "The dissemination of personal identifying information made at the request of the judge or judge's immediate family member or that is necessary to effectuate the request of the judge or judge's immediate family member."

- “The use of personal identifying information internally to provide access to businesses under common ownership or affiliated by corporate control, or to sell or provide data for a transaction or service requested by or that concerns the individual whose personal identifying information is being transferred.”
- “The provision of publicly available personal identifying information by a real-time or near-real-time alert service for a health or safety purpose.”
- “The use of personal identifying information by a consumer reporting agency subject to the fair credit reporting act, 15 USC 1681 to 1681x.”
- “The use of personal identifying information by a commercial entity engaged in the collection, maintenance, disclosure, sale, communication, or use of personal identifying information bearing on a consumer’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living by a consumer reporting agency, furnisher, or user that provides personal identifying information for use in a consumer report, and by a user of a consumer report, but only to the extent that such activity is regulated by and authorized under the fair credit reporting act, 15 USC 1681 to 1681x.”
- “The use of personal identifying information by a commercial entity using personal identifying information that was collected, processed, sold, or disclosed in compliance with the driver’s privacy protection act of 1994, 18 USC 2721 to 2725.”
- “The use of personal identifying information subject to the Gramm-Leach-Bliley act, 15 USC 6801 to 6809.”
- “The use of personal identifying information by a financial institution, 1 or more of a financial institution’s affiliates, or an independent contractor acting on behalf of a financial institution or a financial institution’s affiliates, subject to the Gramm-Leach-Bliley Act, 15 USC 6801 to 6809.”
- “The use of personal identifying information by an entity covered by the privacy regulations promulgated under section 1320d-2(c) of the health insurance portability and accountability act of 1996, 42 USC 1320d-2.”
- “Except as otherwise provided in this subdivision, the use of personal identifying information by a commercial entity to do any of the following: prevent, detect, protect against, or respond to security incidents, identity theft, fraud, harassment, malicious or deceptive activities, or any illegal activity; preserve the integrity or security of systems; or investigate, report, or prosecute any person responsible for any such action. A commercial entity that uses personal identifying information to do any of the activities described in this subdivision shall not disseminate the personal identifying information to the public or publicly post or display the personal identifying information.”
- Specifies that “collection and sale or licensing of personal identifying information incidental to conducting the activities” permitted in Sec. 5(a) to (l) is also permitted. (Page 8, Lines 12-14)
- Specifies that “[n]othing in this section prohibits a public body from providing access to records that contain the personal identifying information of a judge or judge’s immediate family member to a person when the access is incidental to conducting the activities under subdivisions (a) to (l).” (Page 8, Lines 15-19)

- Clarifies when a judge or judge’s immediate family member may commence a civil action in Sec. 7(1). (Page 8, Lines 24-27)
- Adds an enacting section providing that the act is to take effect 180 days after it is enacted into law. (Page 9, Lines 27-28)

***Keller* Considerations**

The Board of Commissioners determined that two prior iterations of the Judicial Protection Act (2022 SB 869 and 2024 HB 5724) were *Keller*-permissible on the basis that the legislation was reasonably related to court functioning. The Board reasoned that judicial officers are essential to the operation of the court system. If judges are endangered or if they are reticent to perform their duties due to fear for their safety or the safety of their loved ones, courts cannot function properly. Therefore, legislation aimed at preventing the disclosure of personal identifying information that may endanger a judicial officer is reasonably related to the functioning of the courts and *Keller*-permissible.

***Keller* Quick Guide**

THE TWO PERMISSIBLE SUBJECT-AREAS UNDER KELLER:

| | | |
|--|--|---|
| <i>As interpreted by AO 2004-1</i> | Regulation of Legal Profession | Improvement in Quality of Legal Services |
| | Regulation and discipline of attorneys | ✓ Improvement in functioning of the courts |
| | Ethics | Availability of legal services to society |
| | Lawyer competency | |
| | Integrity of the Legal Profession | |
| | Regulation of attorney trust accounts | |

Staff Recommendation

The Board of Commissioners determined that two previous iterations of the Judicial Protection Act were reasonably related to the functioning of the courts and therefore *Keller*-permissible. Likewise, this newest iteration may be considered on its merits.

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5724**

A bill to protect the safety of judges and certain other individuals; to protect certain information of judges and certain other individuals from disclosure; to provide for the powers and duties of certain state and local governmental officers and certain other people and entities; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "judicial protection
2 act".

3 Sec. 2. As used in this act:

4 (a) "Immediate family member" means any of the following whose
5 permanent residence is the same as the judge's permanent residence:

6 (i) The judge's spouse.

7 (ii) The judge's child.

1 (iii) The judge's parent.

2 (iv) Any other familial relative of a judge.

3 (b) "Judge" means any of the following:

4 (i) A state court judge, which includes only a judge or justice
5 who is serving by election or appointment on the district court,
6 probate court, circuit court, court of appeals, or supreme court of
7 this state.

8 (ii) A federal judge as that term is defined in the Daniel
9 Anderl judicial security and privacy act of 2022, Public Law 117-
10 263, or a senior, recalled, or retired federal judge, and who
11 serves, served, or has a residential address in this state.

12 (iii) A judge serving on a tribal court for a federally
13 recognized tribe located in this state.

14 (c) "Person" means an individual, corporation, limited
15 liability company, partnership, firm, organization, association, or
16 other legal entity but does not include a public body.

17 (d) "Personal identifying information" means any 1 or more of
18 the following:

19 (i) Except as provided in section 3(5), date of birth.

20 (ii) Except for the city and township of residence, permanent
21 residential address.

22 (iii) Address of other property owned.

23 (iv) Home or cellular telephone number.

24 (v) State identification number or driver license number.

25 (vi) Social Security number.

26 (vii) Personal email address.

27 (viii) Federal or state tax identification number.

28 (ix) Personal credit, charge, or debit card information.

1 (x) Bank account information, including account or PIN
2 numbers.

3 (xi) License plate number or other unique identifier of a
4 vehicle that is owned, leased, or regularly used by a judge or a
5 judge's immediate family member.

6 (xii) Current or future school or day-care information
7 including, but not limited to, the name or address of the school or
8 day care attended, schedule of attendance, or route taken to or
9 from the school or day care by a judge or a judge's immediate
10 family member.

11 (xiii) Information on the employment location, except a court
12 house, of a judge or a judge's immediate family member including
13 the name or address of the employer, employment schedules, or
14 routes taken to or from the employer.

15 (e) "Public body" means any of the following:

16 (i) A state officer, employee, agency, department, division,
17 bureau, board, commission, council, authority, or other body in the
18 executive branch of the state government, but does not include the
19 governor or lieutenant governor, the executive office of the
20 governor or lieutenant governor, or employees of the governor or
21 lieutenant governor.

22 (ii) An agency, board, commission, or council in the
23 legislative branch of the state government.

24 (iii) A county, city, township, village, intercounty, intercity,
25 or regional governing body, council, school district, special
26 district, or municipal corporation, or a board, department,
27 commission, council, or agency.

28 (iv) Except as provided under subparagraph (v), any other body
29 that is created by state or local authority or is primarily funded

1 by or through state or local authority, except that the judiciary,
2 including the office of the county clerk and its employees when
3 acting in the capacity of clerk to the circuit court, is not
4 included in the definition of public body.

5 (v) If approved by the supreme court, the judiciary.

6 (f) "Publicly post or display" means to communicate or
7 otherwise make personal identifying information available to the
8 general public.

9 (g) "Residential address" means the place that is the settled
10 home or domicile at which an individual legally resides and is a
11 residence as that term is defined in section 11 of the Michigan
12 election law, 1954 PA 116, MCL 168.11.

13 (h) "Transfer" means to sell, license, trade, or exchange for
14 consideration the personal identifying information of a judge or
15 judge's immediate family member.

16 Sec. 3. (1) A judge may request that a public body or person
17 not publicly post or display the personal identifying information
18 of a judge or a judge's immediate family member.

19 (2) A judge may submit a written request, on a form prescribed
20 by the state court administrative office, to a public body or
21 person to remove a public posting or display of personal
22 identifying information of the judge or the judge's immediate
23 family member. The form must include both of the following:

24 (a) Proof of the judge's office and identity.

25 (b) The personal identifying information of the judge or the
26 judge's immediate family member that the judge desires to protect.

27 (3) A written request provided to a public body or person
28 under subsection (2) remains in force and effect until the judge
29 provides a signed written request to rescind or modify the prior

1 request.

2 (4) On the written delegation of authority by a state court
3 judge as that term is defined in section 2(b)(i) to the state court
4 administrative office, the state court administrative office may
5 submit a written request to a public body or person on behalf of a
6 judge under subsection (2). A written request under this subsection
7 must be given the same force and effect as a written request
8 submitted by a judge.

9 (5) To comply with section 19 of article VI of the state
10 constitution of 1963, a judge's date of birth may be obtained by
11 any person by contacting the state court administrative office.

12 (6) A written request provided to the office of the county
13 register of deeds must include a list of all instruments to be
14 protected by liber and page or other unique identifying number.

15 Sec. 4. (1) Except as otherwise provided, a public body that
16 has received a request under section 3 shall not publicly post or
17 display or provide to a person the specified personal identifying
18 information of a judge or a judge's immediate family member, as
19 applicable. A public body that has already publicly posted or
20 displayed the specified personal identifying information shall
21 remove the personal identifying information not later than 5
22 business days after receiving the request. This act does not
23 require a public body to permanently delete personal identifying
24 information that is not accessible to the public.

25 (2) Except as otherwise provided, a person that has received a
26 request under section 3 shall not publicly post or display or
27 transfer the specified personal identifying information of a judge
28 or a judge's immediate family member, as applicable. A person that
29 has already publicly posted or displayed the personal identifying

1 information shall remove the personal identifying information not
2 later than 5 business days after receiving the request.

3 (3) A public body may comply with the requirements of this
4 section by redacting the specified personal identifying information
5 that is publicly posted or displayed or by masking the entire
6 contents of a document or record that contains the specified
7 personal identifying information. This section does not alter or
8 amend a public body's obligations under the freedom of information
9 act, 1976 PA 442, MCL 15.231 to 15.246.

10 Sec. 5. This act does not apply to any of the following:

11 (a) The display of the personal identifying information of a
12 judge or a judge's immediate family member if the information is
13 relevant to and displayed as part of a news story, commentary,
14 editorial, or other speech on a matter of public concern.

15 (b) After the effective date of this act, personal identifying
16 information voluntarily published by the judge or the judge's
17 immediate family member.

18 (c) The dissemination of personal identifying information made
19 at the request of the judge or judge's immediate family member or
20 that is necessary to effectuate the request of the judge or judge's
21 immediate family member.

22 (d) The use of personal identifying information internally to
23 provide access to businesses under common ownership or affiliated
24 by corporate control, or to sell or provide data for a transaction
25 or service requested by or that concerns the individual whose
26 personal identifying information is being transferred.

27 (e) The provision of publicly available personal identifying
28 information by a real-time or near-real-time alert service for a
29 health or safety purpose.

1 (f) The use of personal identifying information by a consumer
2 reporting agency subject to the fair credit reporting act, 15 USC
3 1681 to 1681x.

4 (g) The use of personal identifying information by a
5 commercial entity engaged in the collection, maintenance,
6 disclosure, sale, communication, or use of personal identifying
7 information bearing on a consumer's credit worthiness, credit
8 standing, credit capacity, character, general reputation, personal
9 characteristics, or mode of living by a consumer reporting agency,
10 furnisher, or user that provides personal identifying information
11 for use in a consumer report, and by a user of a consumer report,
12 but only to the extent that such activity is regulated by and
13 authorized under the fair credit reporting act, 15 USC 1681 to
14 1681x.

15 (h) The use of personal identifying information by a
16 commercial entity using personal identifying information that was
17 collected, processed, sold, or disclosed in compliance with the
18 driver's privacy protection act of 1994, 18 USC 2721 to 2725.

19 (i) The use of personal identifying information subject to the
20 Gramm-Leach-Bliley act, 15 USC 6801 to 6809.

21 (j) The use of personal identifying information by a financial
22 institution, 1 or more of a financial institution's affiliates, or
23 an independent contractor acting on behalf of a financial
24 institution or a financial institution's affiliates, subject to the
25 Gramm-Leach-Bliley Act, 15 USC 6801 to 6809.

26 (k) The use of personal identifying information by an entity
27 covered by the privacy regulations promulgated under section 1320d-
28 2(c) of the health insurance portability and accountability act of
29 1996, 42 USC 1320d-2.

1 (l) Except as otherwise provided in this subdivision, the use
2 of personal identifying information by a commercial entity to do
3 any of the following: prevent, detect, protect against, or respond
4 to security incidents, identity theft, fraud, harassment, malicious
5 or deceptive activities, or any illegal activity; preserve the
6 integrity or security of systems; or investigate, report, or
7 prosecute any person responsible for any such action. A commercial
8 entity that uses personal identifying information to do any of the
9 activities described in this subdivision shall not disseminate the
10 personal identifying information to the public or publicly post or
11 display the personal identifying information.

12 (m) The collection and sale or licensing of personal
13 identifying information incidental to conducting the activities
14 under subdivisions (a) to (l).

15 (n) Nothing in this section prohibits a public body from
16 providing access to records that contain the personal identifying
17 information of a judge or judge's immediate family member to a
18 person when the access is incidental to conducting the activities
19 under subdivisions (a) to (l).

20 Sec. 6. Any personal identifying information covered by a
21 written request under section 4(1) is exempt from disclosure under
22 section 13(1)(d) of the freedom of information act, 1976 PA 442,
23 MCL 15.243, by the public body that received the written request.

24 Sec. 7. (1) If 5 business days after a public body or a person
25 has received a written request under section 3 the public body or
26 person is not in compliance with this act, the judge or the judge's
27 immediate family member may commence a civil action to compel
28 compliance or to enjoin further noncompliance with this act.

29 (2) An action for injunctive relief against a local public

1 body or person must be commenced in the circuit court, and venue is
2 proper in any county in which the judge serves. An action for an
3 injunction against a state public body must be commenced in the
4 court of claims. If a judge or a judge's immediate family member
5 commences an action for injunctive relief, the judge or the judge's
6 immediate family member is not required to post security as a
7 condition for obtaining a preliminary injunction or a temporary
8 restraining order.

9 (3) An action for mandamus against a public body under this
10 act must be commenced in the court of appeals.

11 (4) If a public body or person is not complying with this act,
12 and a judge or a judge's immediate family member commences a civil
13 action against the public body or person for injunctive relief to
14 compel compliance or to enjoin further noncompliance with this act
15 and succeeds in obtaining relief in the action, the judge or
16 judge's immediate family member must recover court costs and actual
17 attorney fees for the action.

18 (5) It is not a defense to a violation of this act that the
19 personal identifying information disclosed was publicly available
20 from another source.

21 Sec. 8. This act must be construed liberally to effectuate the
22 legislative intent and the purpose of this act as complete and
23 independent authorization for the performance of each and every act
24 and thing authorized in the act, and all powers granted in this act
25 must be broadly interpreted to effectuate the intent and purpose of
26 this act and not as to limitation of powers.

27 Enacting section 1. This act takes effect 180 days after the
28 date it is enacted into law.

HOUSE BILL NO. 5724

May 14, 2024, Introduced by Reps. Breen, Hope, Wilson, Mueller, Filler, Pohutsky, Rheingans, Haadsma, Tsernoglou, Arbit, Steckloff, Andrews, Roth, Morse, Aragona, Mentzer, McFall, Dievendorf, Herzberg, Edwards, Byrnes, Wozniak, Bezotte, Outman, Fitzgerald, Hoskins, Martus, Conlin, MacDonell, Tyrone Carter, Morgan and Brixie and referred to the Committee on Judiciary.

A bill to protect the safety of judges and certain other individuals; to protect certain information of judges and certain other individuals from disclosure; to provide for the powers and duties of certain state and local governmental officers and certain other people and entities; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "judicial protection
2 act".

3 Sec. 2. As used in this act:

1 (a) "Immediate family member" means the spouse, child, parent,
2 or any other familial relative of a judge whose permanent residence
3 is the same as the judge's permanent residence.

4 (b) "Judge" means any of the following:

5 (i) A state court judge, which includes only a judge or justice
6 who is serving by election or appointment on the district court,
7 probate court, circuit court, court of appeals, or supreme court of
8 this state.

9 (ii) A federal judge as that term is defined in the Daniel
10 Anderl judicial security and privacy act, Public Law 117-263, or a
11 senior, recalled, or retired federal judge, and who serves, served,
12 or has a residential address in this state.

13 (iii) A judge serving on a tribal court for a federally
14 recognized tribe located in this state.

15 (c) "Person" means an individual, corporation, limited
16 liability company, partnership, firm, organization, association, or
17 other legal entity but does not include a public body.

18 (d) "Personal identifying information" means any 1 or more of
19 the following:

20 (i) Except as provided in section 3(5), date of birth.

21 (ii) Except for the city and township of residence, permanent
22 residential address.

23 (iii) Address of other property owned.

24 (iv) Home or cellular telephone number.

25 (v) State identification number or driver license number.

26 (vi) Social Security number.

27 (vii) Personal email address.

28 (viii) Federal or state tax identification number.

1 (ix) Personal credit, charge, or debit card information.

2 (x) Bank account information, including account or PIN
3 numbers.

4 (xi) License plate number or other unique identifier of a
5 vehicle that is owned, leased, or regularly used by a judge or a
6 judge's immediate family member.

7 (xii) Current or future school or day-care information
8 including, but not limited to, the name or address of the school or
9 day care attended, schedule of attendance, or route taken to or
10 from the school or day care by a judge or a judge's immediate
11 family member.

12 (xiii) Information on the employment location, except a court
13 house, of a judge or a judge's immediate family member including
14 the name or address of the employer, employment schedules, or
15 routes taken to or from the employer.

16 (e) "Public body" means any of the following:

17 (i) A state officer, employee, agency, department, division,
18 bureau, board, commission, council, authority, or other body in the
19 executive branch of the state government, but does not include the
20 governor or lieutenant governor, the executive office of the
21 governor or lieutenant governor, or employees thereof.

22 (ii) An agency, board, commission, or council in the
23 legislative branch of the state government.

24 (iii) A county, city, township, village, intercounty, intercity,
25 or regional governing body, council, school district, special
26 district, or municipal corporation, or a board, department,
27 commission, council, or agency thereof.

28 (iv) Except as provided under subparagraph (v), any other body
29 that is created by state or local authority or is primarily funded

1 by or through state or local authority, except the judiciary,
2 including the office of the county clerk and its employees when
3 acting in the capacity of clerk to the circuit court, is not
4 included in the definition of public body.

5 (v) If approved by the supreme court, the judiciary.

6 (f) "Residential address" means the place that is the settled
7 home or domicile at which an individual legally resides and is a
8 residence as defined in section 11 of the Michigan election law,
9 1954 PA 116, MCL 168.11.

10 Sec. 3. (1) A judge may request that a public body or person
11 not publicly post or display the covered information of a judge or
12 a judge's immediate family member.

13 (2) A judge may submit a written request, on a form prescribed
14 by the state court administrative office, to a public body or
15 person to prevent disclosure of or remove a public posting or
16 display of covered information of the judge or the judge's
17 immediate family member. The form must include information on the
18 appropriate methods to provide the form to a public body or person
19 and require both of the following, as applicable:

20 (a) Proof of the judge's office and identity.

21 (b) The covered information of the judge, the judge's
22 immediate family member, or the individual residing with the judge
23 that the judge desires to protect.

24 (3) A written request provided to a public body or person
25 under subsection (2) remains in force and effect until the judge
26 provides a signed written permission to allow the public body or
27 person to release some or all of the covered information.

28 (4) On the written delegation of authority by a state court
29 judge as that term is defined in section 2(b)(i) to the state court

1 administrative office, the state court administrative office may
2 submit a written request to a public body on behalf of a judge
3 under subsection (2). A written request under this subsection must
4 be given the same force and effect as a written request submitted
5 by a judge.

6 (5) To comply with section 19 of article VI of the state
7 constitution of 1963, a judge's date of birth may be obtained by
8 any person by contacting the state court administrative office.

9 Sec. 4. (1) Except as otherwise provided, a public body that
10 has received a request under section 3 shall not publicly post or
11 display or provide to a person the specified covered information of
12 a judge or a judge's immediate family member, as applicable. A
13 public body that has already publicly posted or displayed the
14 specified covered information shall remove the covered information
15 within 5 business days. This act does not require a public body to
16 permanently delete covered information that is not accessible to
17 the public.

18 (2) Except as otherwise provided, a person that has received a
19 request under section 3 shall not publicly post or display or sell,
20 transfer, or provide to another person the specified covered
21 information of a judge or a judge's immediate family member, as
22 applicable. A person that has already publicly posted or displayed
23 the covered information shall remove the covered information within
24 5 business days.

25 Sec. 5. This act does not apply to either of the following:

26 (a) The display of the covered information of a judge or a
27 judge's immediate family member if the information is relevant to
28 and displayed as part of a news story, commentary, editorial, or
29 other speech on a matter of public concern.

1 (b) After the effective date of this act, covered information
2 voluntarily published by the judge or the judge's immediate family
3 member.

4 Sec. 6. Any covered information covered by a written request
5 under section 4(1) is exempt from disclosure under section 13(1)(d)
6 of the freedom of information act, 1976 PA 442, MCL 15.243, by the
7 public body that received the written request.

8 Sec. 7. (1) If a public body or a person is not complying with
9 this act, the judge may commence a civil action to compel
10 compliance or to enjoin further noncompliance with this act.

11 (2) An action for injunctive relief against a local public
12 body or person must be commenced in the circuit court, and venue is
13 proper in any county in which the judge serves. An action for an
14 injunction against a state public body must be commenced in the
15 court of claims. If a judge commences an action for injunctive
16 relief, the judge is not required to post security as a condition
17 for obtaining a preliminary injunction or a temporary restraining
18 order.

19 (3) An action for mandamus against a public body under this
20 act must be commenced in the court of appeals.

21 (4) If a public body or person is not complying with this act,
22 and a judge commences a civil action against the public body or
23 person for injunctive relief to compel compliance or to enjoin
24 further noncompliance with this act and succeeds in obtaining
25 relief in the action, the judge must recover court costs and actual
26 attorney fees for the action.

27 (5) It is not a defense to a violation of this act that the
28 covered information disclosed was publicly available from another
29 source.

1 Sec. 8. This act must be construed liberally to effectuate the
2 legislative intent and the purpose of this act as complete and
3 independent authorization for the performance of each and every act
4 and thing authorized in the act, and all powers granted in this act
5 must be broadly interpreted to effectuate the intent and purpose of
6 this act and not as to limitation of powers.