

Order

Michigan Supreme Court
Lansing, Michigan

October 24, 2012

Robert P. Young, Jr.,
Chief Justice

ADM File No. 2012-18

Michael F. Cavanagh
Marilyn Kelly
Stephen J. Markman
Diane M. Hathaway
Mary Beth Kelly
Brian K. Zahra,
Justices

Proposed Amendment of Rule 2.512 of the
Michigan Court Rules (would require the
use of Model Criminal Jury Instructions)

On order of the Court, this is to advise that the Court is considering amendments of Rule 2.512 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted on the Court's website at <http://courts.mi.gov/Courts/MichiganSupremeCourt/rules/Pages/Public-Administrative-Hearings.aspx>.

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 2.512 Instructions to Jury

(A)-(C)[Unchanged.]

(D) Model Civil Jury Instructions and Model Criminal Jury Instructions.

- (1) The Committee on Model Civil Jury Instructions and the Committee on Model Criminal Jury Instructions appointed by the Supreme Court ~~has~~ have the authority to adopt model ~~civil~~-jury instructions (~~M-Civ-II~~) and to amend or repeal those instructions approved by the predecessor committee. Before adopting, amending, or repealing an instruction, ~~the~~ each committee shall publish notice of the committee's intent, together with the text of the instruction to be adopted, or the amendment to be made, or a reference to the instruction to be repealed, in the manner provided in MCR 1.201. The

notice shall specify the time and manner for commenting on the proposal. The committee shall thereafter publish notice of its final action on the proposed change, including, if appropriate, the effective date of the adoption, amendment, or repeal. A model ~~civil~~-jury instruction does not have the force and effect of a court rule.

- (2) Pertinent portions of the instructions approved by the Committee on Model Civil Jury Instructions or the Committee on Model Criminal Jury Instructions or ~~it's~~ a predecessor committee must be given in each action in which jury instructions are given if
 - (a) they are applicable,
 - (b) they accurately state the applicable law, and
 - (c) they are requested by a party.
- (3) Whenever ~~the~~ a committee recommends that no instruction be given on a particular matter, the court shall not give an instruction unless it specifically finds for reasons stated on the record that
 - (a) the instruction is necessary to state the applicable law accurately, and
 - (b) the matter is not adequately covered by other pertinent model ~~civil~~ jury instructions.
- (4) This subrule does not limit the power of the court to give additional instructions on applicable law not covered by the model instructions. Additional instructions, when given, must be patterned as nearly as practicable after the style of the model instructions and must be concise, understandable, conversational, unslanted, and nonargumentative.

Staff Comment: The Court has determined that the function of adopting, amending, and repealing model criminal jury instructions should be structured similar to that for model civil jury instructions. As part of that structural change, the Court is considering an amendment that would require trial courts to use model jury instructions in criminal cases under the same circumstances in which they are used in civil cases, i.e., if the instructions are applicable, accurately state the applicable law, and are requested by a party.

The staff comment is not an authoritative construction by the Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on this proposal may be sent to the Supreme Court Clerk in writing or electronically by February 1, 2013, at P.O. Box 30052, Lansing, MI 48909, or MSC_clerk@courts.mi.gov. When filing a comment, please refer to ADM File No. 2012-18. Your comments and the comments of others will be posted on the Supreme Court's website at the following:

<http://www.courts.mi.gov/courts/michigansupremecourt/rules/court-rules-admin-matters/pages/chapter-2-civil-procedures.aspx>.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 24, 2012

Corbin R. Davis

Clerk