

MCR 2.004

Incarcerated Parties

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Probate/Juvenile Register



Effective January 1, 2003, MCR 2.004 was enacted. This rule provides that any party seeking an order regarding a minor child in which a party is incarcerated under the jurisdiction of the Department of Corrections, must provide information for the court so that a telephonic conference can be held.

The rule applies to all domestic relations actions involving minor children; other actions involving the custody, guardianship, neglect or foster care placement of minor children; or the termination of parental rights (MCR 2.004(A)). In Probate Court this would include every guardianship file. Every guardianship file has "interested persons." Typically these include the mother, father and proposed guardian; however, other relatives or custodians may be interested depending upon the facts of the case. If you are filing a petition for guardianship, you must now include with your petition a declaration with respect to incarcerated parties under the jurisdiction of the Michigan Department of Corrections (MDOC).

Specifically, before you file your petition it is your responsibility (or your client's) to:

- 1) Determine if any of the parties listed on your petition are under the jurisdiction of the MDOC (generally this means they are in prison);
- 2) Obtain the party's *offender* number, location, prison address and phone number.
- 3) Complete the form *Declaration of Parties Seeking Order Regarding a Minor Child*.

The Oakland County Probate Court will not accept your petition for filing until you have completely filled out the declaration form.

The Court will provide an information sheet that identifies all of this for you. Currently the declaration form is only available at the Probate counter; however, it is our intention to make this available through our Web site for your convenience.

There are two basic ways to determine whether one of your interested parties is incarcerated. The first is to go online with the State of Michigan Department of Corrections to access the offender tracking information system (OTIS). The Web site is: <http://www.state.mi.us/mdoc/asp/otis2.html>.

If you or your client does not have access to a computer, the Research Library on the ground floor of the courthouse west wing extension or the Law Library on the second floor of the west wing extension does provide computer access to the public. Finally, you may also call MDOC directly at 517-373-0284.

The court rule provides that if there is an incarcerated party, the court will enter an *Order Requesting Prisoner Be Allowed to Participate in Court Proceedings* and will serve it on all parties. The incarcerated party will be offered the opportunity to participate in the court proceedings via a noncollect/unmonitored telephone call.

It is your responsibility to include the prisoner number (offender number) on the envelope when serving your *Petition* and *Notice of Hearing*.

For your information, similar policies are being finalized and established for all domestic relation cases; other actions involving custody, neglect or foster care placement of minor children; and termination of parental rights.

If you have any questions regarding this new procedure, please contact either myself or the Chief of Estates, Jill Koney Daly. Stay tuned!