



THIRD JUDICIAL CIRCUIT
OF MICHIGAN

TIMOTHY M. KENNY
CHIEF JUDGE

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ADMINISTRATIVE ORDER 2020 – 02

STATE OF MICHIGAN
THIRD JUDICIAL CIRCUIT

**SUBJECT: USE PORTABLE ELECTRONIC COMMUNICATION DEVICES IN A
COURTHOUSE**

Pursuant to MCR 8.112(B) and 8.123(C), the Third Circuit Court adopts the following as its policy regarding use of Electronic Devices in the Courthouse:

(1) Purpose. This rule specifies the permitted and prohibited uses of portable electronic devices in a courthouse. A court must use reasonable means to advise courthouse visitors of the provisions of this rule. This rule does not modify or supersede the guidelines for media coverage of court proceedings.

(2) Definitions. The following definitions apply in this rule:

- a. A "portable electronic device" is a mobile device capable of electronically storing, accessing, or transmitting information. The term encompasses, among other things, a transportable computer of any size, including a tablet, a notebook, and a laptop; a smart phone, a cell phone, or other wireless phone; a camera and other audio or video recording devices; a personal digital assistant (PDA); other devices that provide internet access; and any similar items.
- b. "Courthouse" includes all areas within the exterior walls of a court building, or if the court does not occupy the entire building, that portion of the building used for the administration and operation of the court. A "courthouse" also includes areas outside a court building where a judge conducts an event concerning a court case.
- c. "Courtroom participant" includes a litigant (plaintiff or defendant), witness, or juror who is present in a physical courtroom or a virtual video and/or audio courtroom as part of a proceeding. Proceedings occur in judicial courtrooms and referee hearing rooms;

therefore, the provisions that affect courtroom proceedings also apply to proceedings that take place before a referee.

(3) Photography and audio or video recording, broadcasting, or live streaming. The following restrictions apply to photography, audio recording, video recording, broadcasting, or live streaming in a courthouse.

- a. In a courtroom or a referee hearing room: No one may use a portable electronic device to take photographs or for audio or video recording, broadcasting, or live streaming unless that use is specifically allowed by the judge or referee presiding over the proceeding. The official transcripts of proceedings are available through the Court Reporting Services Department of the Court.
- b. Outside a courtroom or a referee hearing room: In areas of a courthouse other than courtrooms and referee hearing rooms, no one may photograph, record, broadcast, or live stream an individual without that individual's prior express consent.
- c. Jurors: No one may photograph, record, broadcast, or live stream any juror or anyone called to the court for jury service.

(4) Jurors and witnesses. The following restrictions apply to use of portable electronic devices by jurors, including prospective jurors, and by witnesses.

- a. Jurors: Jurors must turn off their portable electronic devices while present in a courtroom or hearing room. A jurist may order jurors to turn over to the court their portable electronic devices during deliberations. The court may utilize electronic device pouches and secure items so that jurors may keep their silenced devices in their possession. The court must provide jurors with a phone number where they can be reached in case of an emergency during deliberations.
- b. Witnesses: A witness **must** silence any portable electronic device while in a courtroom or hearing room, and may use a device while testifying only with permission of a jurist. In addition to all other requirements, sequestered witnesses shall not communicate with individuals inside the courtroom directly or indirectly by a portable electronic device.
- c. Law enforcement officer as witness or juror: All provisions related to jurors, witnesses, and members of the public apply to law enforcement officers that are functioning in those roles. This includes the limitations requiring one to silence portable electronic devices and prohibiting courtroom recordings, including body cam recordings.

(5) Attorneys, parties, and members of the public. The following provisions apply to use of portable electronic devices in a courtroom or hearing room by attorneys, parties, and members of the public. Any allowed use of a portable electronic device under this paragraph is subject to the authority of the jurist to terminate activity that is disruptive or distracting to a court proceeding, or that is otherwise contrary to the administration of justice.

A. Allowed uses:

1. Attorneys, parties, and members of the public may use a portable electronic device in a courtroom or hearing room:
 - a) to retrieve or to store information (including note-taking),
 - b) to access the Internet, and,
 - c) to send and receive text messages or information.

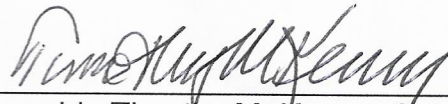
2. Attorneys, parties, and members of the public may use a portable electronic device to reproduce public court documents in a clerk's office, as long as the device leaves no mark or impression on the document and does not unreasonably interfere with the operation of the clerk's office.

3. Prohibited uses:
 - a) Attorneys, parties, and members of the public must silence portable electronic devices while in the courtroom or hearing room.
 - b) A portable electronic device may not be used, without permission of the court, to make or to receive telephone calls or for any other audible function while court is in session.
 - c) Portable electronic devices may not be used to communicate in any way with any courtroom participant including, but not limited to, a party, a witness, or juror at any time during any court proceedings.
 - d) Additional prohibited uses related to photography, recording, and broadcasting are found in Section (3) above.

(6) Use of a portable electronic device outside a courtroom and hearing room; limitations. Except as provided in the foregoing paragraphs, a person may use a portable electronic device in a courthouse, subject to the authority of judges, Clerks of the Court, or court administrators to limit or terminate activity that is disruptive to court operations or that compromises courthouse security. Such limitations and terminations must be consistent with this rule.

(7) Violations of this rule. If these rules are violated, the presiding jurist may confiscate the device for the remainder of the day, the proceeding, or order that the phone be turned off and put away. After a serious intentional violation, or multiple violations, the presiding jurist may impose any other appropriate sanction, including contempt of court and/or the removal of person or persons from the courtroom during a time when they are not actively involved in the case being heard.

Dated: May 1, 2020



Honorable Timothy M. Kenny, Chief Judge
Third Judicial Circuit of Michigan

Date Approved by SCAO: May 5, 2020