



**Michigan Supreme Court**  
**State Court Administrative Office**  
**Trial Court Services Division**  
Michigan Hall of Justice  
P.O. Box 30048  
Lansing, MI 48909

August 23, 2011

TO: Michigan Court Forms Committee, Family Division of Circuit Court Section

FROM: Traci Gentilozzi, Forms and Manuals Analyst

RE: Agenda and Materials for **September 15, 2011 Meeting**

PLACE: **Michigan Hall of Justice**, 925 West Ottawa, downtown Lansing (map enclosed)

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Below is the agenda for the September 15, 2011 meeting of the Michigan Court Forms Committee, Family Division of Circuit Court Section. The meeting starts at 9:30 a.m. and ends at 3:30 p.m. **Lunch reservations have been made for you. If you cannot attend, please contact me at least two days before the meeting.** Please note that our office is located at 925 West Ottawa. A map is provided.

Although documentation is provided with the agenda, it would be helpful to bring a copy of the Michigan Court Rules and any other resources you believe are necessary.

### **Notice of Minor Revisions**

Forms requiring minor changes, such as spelling, citations, grammar, punctuation, etc., will be corrected by the State Court Administrative Office and provided with the agenda materials, but do not require discussion or approval by the committee. Any of these forms will be discussed if members raise substantive issues or if also included in the agenda for other purposes. The following forms will be corrected and distributed in December 2011: JC 29, JC 75, and JC 97.

#### **A. General Discussion**

1. CC 376M, Personal Protection Order Against A Minor  
CC 380M, Personal Protection Order Against A Minor (Nondomestic)  
CC 396M, Personal Protection Order Against A Minor (Nondomestic Sexual Assault)

It has been asked whether there should be information on these forms regarding (1) a

hearing scheduled after an arrest and (2) the petitioner's ability to file a show-cause motion if there is no arrest, like on the adult personal protection orders (PPOs). It is suggested that information similar to that on the adult forms be on the minor PPOs, but be geared toward juvenile proceedings. The adult PPOs (e.g., CC 396) state:

**“Important:**

If the respondent violates this personal protection order and is arrested, the court will set a date, time, and place for a hearing on the charges against the respondent to be held within 72 hours of after arrest. The court or prosecutor is responsible for giving you notice of this hearing. If you are not notified within 24 hours of the arrest, contact the court that issued this order. If a hearing is not held within 72 hours, the respondent may be released from jail after posting bond pending the hearing.

If the respondent violates this personal protection order and there is no arrest, use form CC 382, Motion and Order to Show Cause for Violating Valid Personal/Foreign Protection Order. This form is available from the circuit court clerk.”

The SCAO notes there are different rules for minors/juveniles in personal protection proceedings than in other proceedings, and this is why the minor PPOs differ from the adults PPOs. Should the minor PPOs include the same information as the adult PPOs? The committee should note there are space constraints on these forms.

It is also questioned whether adult procedures apply in personal protection matters when the respondent is 17 years old, but not yet 18.

2. New Form, Jury Demand

A probate court administrator has suggested this form be developed for several reasons: (1) it can be time consuming to sift through pleadings and determine if there is a jury demand and (2) a jury demand involves an extra fee that must be paid to the court. The SCAO does not believe this form is necessary, primarily because use of the form would not be mandatory and clerks will still need to go through pleadings to determine if there has been a demand for jury trial.

If the committee approves the form's development, the SCAO believes the form should be a general form that is designed for use in circuit, district, and probate courts. Therefore, if the Probate Section approves the form's development, the form will need to be reviewed and approved by all sections of the Michigan Court Forms Committee. A draft is provided.

3. New Forms, Petition to Discontinue Sex Offender Registration and Order

These forms were developed for use in conjunction with recent amendments to the Sex Offenders Registration Act (SORA), effective July 1, 2011. Pursuant to the amendments, individuals may petition the court to discontinue sex offender registration,

provided they meet specific statutory criteria. The draft forms were published for a 30-day public comment period to elicit input for the committee's review and discussion before the forms are presented to the state court administrator for approval. See also the comment received during the publication period.

## **B. Juvenile and Child Protective Forms**

### **1. JC 04b, Petition (Child Protective Proceedings)**

It has been suggested this form be revised to include information from MCL 712A.2(b). It is proposed that the language in item 2 be changed to say (revised language underlined): "2. The child(ren) named above come(s) within the provisions of MCL 712A.2. See page 2 for allegations, the reasons why it is contrary to the welfare of the child(ren) for the child(ren) to remain in the home, and the reasonable efforts made to prevent the removal of the child(ren)." Accordingly, a new page 2 has been added to the form. A draft is provided. It is also asked whether item 2.d. on page 2 ("Specific allegations") should instead be on a new page 3 by itself. Does the committee want to make this a three-page form?

An assistant prosecutor has requested that more space be added in item 1 (for when there is more than four children) and in item 4 (for when there is more than one mother). The committee should note this form was revised last year for the same reason and there are space constraints on the form. See the meeting minutes.

### **2. JC 11a, Order After Preliminary Hearing (Child Protective Proceedings)**

It has been suggested that item 29 be revised to allow an option for "  Until further order of this court." Should this language be added? If so, this change should also be made on JC 11b, Order After Pretrial Hearing (Child Protective Services), because it includes the same language.

A judicial assistant has asked that space be added in item 30. It is asserted that more space is needed because item 30 is used to appoint attorneys, request birth certificates, etc. It is proposed that lines be removed from item 9.a. to allow more space. The committee should note this form was redesigned last year for similar space reasons, and that space was specifically added to item 9.a. because it had been asserted that space was insufficient. See the meeting minutes. Should the form be revised again?

Also, "In the matter of" should be added to the top of page 4.

### **3. JC 17, Order of Disposition (Child Protective Proceedings) JC 49, Order of Adjudication (Child Protective Proceedings)**

It has been suggested that these forms be combined due to the amount of combined adjudication and disposition hearings that occur in these types of cases. It is asserted

that a combined form would benefit the parties and also save time. It is explained that parties typically know prior to a court hearing that a parent plans to enter a plea, and when caseworkers are aware of the plan to enter a plea, the case service plan and report are often readily available to all parties at the time of the adjudication hearing. Therefore, it is explained that common practice is to proceed directly to the initial dispositional hearing, so that orders for services can be entered and services offered to the family as soon as possible. Due to this practice, it is asserted that it would be easier for all parties to receive one order that provides the adjudication information and the disposition information, instead of two orders. It is also claimed this will benefit the courts because it will save time in that only one order (and not two) will need to be completed. Should/can the forms be combined? Or are the two separate forms sufficient and/or necessary? The SCAO notes that courts would not be required to use the combined order, if one is developed, and a combined form would be several pages long. A draft has not been provided.

On JC 49, a judge has also suggested that an option be included for a no-contest plea. It is explained that a no-contest plea is authorized by MCR 3.971. Should this information be added to the form (or to a combined form, if one is developed)?

4. JC 19, Order Following Dispositional Review/Permanency Planning Hearing (Child Protective Proceedings)  
JC 76, Order After Post-Termination Review/Permanency Planning Hearing (Child Protective Proceedings)

The Michigan Probate and Juvenile Registers Association (pursuant to judges' recommendations) has asked that a checkbox be added to item 22.d. on JC 19 and item 18 on JC 76 for ordering a guardianship under the Estate and Protected Individuals Code (EPIC). It is explained that some courts do not order juvenile guardianships under MCR 3.979(B) and, instead, place children in EPIC guardianships. The SCAO does not recommend this change because it would likely cause confusion and present jurisdictional issues. Also, it is noted that guardianship is already incorporated into the orders as a permanency plan.

5. JC 29, Order to Transfer Case

A court employee has requested that space be added for the minor's current address. It is explained that this information would be helpful when a case is transferred and/or in cases where a minor has moved between counties and the paperwork indicates a prior address. Should this information be added?

6. JC 63, Order Following Hearing to Terminate Parental Rights

It has been asked whether this form should be revised in light of the Michigan Supreme Court's ruling in *In re Beck*, 488 Mich 6 (2010). In *Beck*, the Court clarified

that a termination of parental rights does not automatically end a child-support obligation and that payments continue until the support order is specifically terminated by a court of competent jurisdiction. It has been questioned whether the form should have a check box option for the court to indicate that child support has either been terminated or continues. The following language (or similar language) has been proposed: “An order exists for the parent to pay child support for the child. Notwithstanding the termination of this parent’s parental rights, pursuant to *In re Beck*, 488 Mich 6 (2010), this court  continues  terminates that child-support order, effective on the date of this termination.” It is explained that this language would be helpful because the court would have to explicitly state whether the child-support order continues or is terminated. Should this language be on the form? Does the court that is terminating the parental rights have “competent jurisdiction” to enter the type of order being contemplated? The *Beck* decision is provided for reference.

Kent County has requested the following language be added to JC 63 and, if approved by the committee, to all NA orders: “The Department of Human Services and any/all other treating or supervising agencies are ordered to release all records related to the child(ren) and parent(s) named herein to the Court and all attorneys of record upon verbal or written request, including but not limited to: Medical treatment records, substance abuse treatment records, mental health treatment and counseling records, and educational records. The supervising agency shall provide documentation of progress relating to all aspects of the last court-ordered treatment plan, including copies of evaluations and therapy reports and verification of parenting time, not later than 5 business days before the scheduled hearing.” It is asserted this language would be helpful because there have been concerns with attorneys receiving inaccurate information from DHS and POS agencies due to caseworkers misunderstanding the law and the DHS policy on confidentiality. Although DHS Central Office has attempted to take steps to rectify this situation, it is explained that this language would provide an immediate resolution to the issue without attorneys having to bring motions for discovery. In addition, the DHS Central Office Legal Department has reviewed the language and agrees it may be helpful.

7. JC 82, Affidavit of Service Performed by Lawyer-Guardian Ad Litem

The “authority” for the note at the end of the form has been questioned – that is, authority for indicating that this form must be filed in order to receive payment. After doing some research, the SCAO has concluded there is no authority for the note in court rule, statute, administrative order or memorandum. Therefore, the SCAO recommends the note be removed.

8. JC 94, Annual Report of Juvenile Guardian

The Michigan Probate and Juvenile Registers Association has indicated that some juvenile guardians are not serving this report on the parties, as required by MCR

3.979(E). It has been requested the following be added to the form: (1) a note indicating that the report must be served on the interested parties and (2) space for listing the people who are served. It is suggested this information be placed at the end of the form. Should this information be added and, if so, where?

9. JC 104, Order Discharging Juvenile Guardian

It has been requested that an option be added for dismissal and discharge of the guardian in circumstances where the child has died.

10. New Form, Order Following Hearing Regarding Putative Father

A judge has suggested this new form be developed because currently there is no order after a hearing on the putative father's rights. It is asserted it would be beneficial to have a form for this purpose because hearings on putative fathers' rights are increasing and court orders vary in this regard. It is explained that a statewide form will help alleviate any confusion and will create uniformity in these cases. It is explained that such an order can be issued pursuant to MCR 3.912(D)(2), which provides:

“(D) Putative Fathers. If, at any time during the pendency of a proceeding, the court determines that the minor has no father as defined in MCR 3.903(A)(7), the court may, in its discretion, take appropriate action as described in this subrule.

(2) After notice to the putative father as provided in subrule (C)(1), the court may conduct a hearing and determine, as appropriate, that:

(a) the putative father has been served in a manner that the court finds to be reasonably calculated to provide notice to the putative father.

(b) a preponderance of the evidence establishes that the putative father is the natural father of the minor and justice requires that he be allowed 14 days to establish his relationship according to MCR 3.903(A)(7). The court may extend the time for good cause shown.

(c) there is probable cause to believe that another identifiable person is the natural father of the minor. If so, the court shall proceed with respect to the other person in accord with subrule (D).

(d) after diligent inquiry, the identity of the natural father cannot be determined. If so, the court may proceed without further notice and without appointing an attorney for the unidentified person.

....”

A draft is provided. Should a statewide form be developed?

## C. Adoption Forms

1. PCA 301, Petition for Adoption

A probate court employee has suggested adding a section similar to item 1 after the

petitioners' signatures, for adoption of state ward (AM) cases that involve neglect/abuse and other circuit court cases where notice must be sent to the prior court. It is asserted that the information in item 1 is beneficial when giving notice to a prior court, but that it does not make sense to enter the information in item 1 then subsequently indicate that the identity of the parents is unknown in item 6. It is also noted that information about a previous case is helpful to court staff because the decision in the AM case may affect other cases, such as support matters. It is asserted that agency workers frequently do not know that companion cases exist (and that is why this particular court lists the companion cases on a separate form and clerical staff sends notice based on that list, rather than on what the agency worker says/reports). Should this change be made? Is the information needed at the end of the form when it already exists in item 1? When considering this suggestion, the committee should note there are space constraints on the form.

Also, the accuracy/purpose of the following checkboxes in the form's title has been questioned: " Stepparent  Related Within 5<sup>th</sup> Degree  Other (Excluding Direct Adoption)." It is asserted these are not the only available choices for adoption because the form is also used in adult adoptions, adoptions by a non-relative, adoptions of a state ward, adoptions through an agency, and adoptions by someone from another country. While it is asserted the existing options confuse agency workers, it is acknowledged there may only be three options because these are the most common types of petitions. No specific change has been recommended, other than adding a box for the adoption of children who are wards of the Michigan Children's Institute ("MCI wards").

## 2. PCA 320, Order Placing Child after Consent

A probate court employee has requested that an option be included at the top of the form for instances where the adopting parents do not know the birth name of the adoptee. It is suggested that the following language be added after "In the matter of": " The birth name of the adoptee is unknown to the adoptive parent(s). The adoptee will be known as \_\_\_\_\_ if the adoption is confirmed by the court." It is explained that courts currently type "To be known as: (child's post-adoption name)" on the "In the matter of" line. However, it is asserted that sometimes agency workers and court staff do not remember to check the file to see whether the information is supposed to be kept closed.

## 3. PCA 340, Statement of Identifying Information

A probate court employee has suggested that a checkbox be inserted before item 5 because it is optional. It is asserted that items 1 through 4 apply to every adoption case, but item 5 does not because a court-appointed guardian is not a requirement for placement. It is explained that, in most cases, the parent is handling the placement and not a guardian. It is acknowledged that perhaps there could be a court-appointed guardian with the parents being unknown and, in those cases, "unknown" would be entered in item 4 – but that there are always parents (even if unknown).

4. PCA 347, Petitioner's Verified Accounting

A probate court employee has asked that this form (specifically the 21-day version) be reviewed for clarity and accuracy. It is asserted that (1) case workers, especially Michigan Children's Institute (MCI) adoption case workers, have difficulty filling out the form properly and therefore the form is being completed inconsistently, and (2) some variations in completion of the form are sufficient to show there were no additional fees, but others are "unacceptable" because they reflect "double fees." It is suggested that either:

(1) the language in parentheses at the top be removed – "(If this box is checked, write NONE in the TOTAL below and date and sign the form.)"

or

(2) all the language after the check box at the top be removed ("  Except for those payments or disbursements listed in my 7-day accounting, ....").

Should this change be made? Or is this a training issue?

It is recommended that a section be added for birth certificate fees, although such fees are not required for an adoption to be processed. It is asserted that some courts accept the birth certificate fee along with the court filing fee, then the court issues a check once each month (or as cases are closed) to the Michigan Department of Community Health Vital Records Division. It is explained that, for the courts that do this, it would be helpful to have a section on the form for birth certificate fees, to lessen any confusion and decrease the likelihood of mistakes. It is noted that the adoption process can often be confusing for people, and having space on the form for birth certificate fees would ease the burden of courts being asked to subsequently fix errors that are made.

It is requested that space be allotted for "actual fees" that are paid. It is asserted there is nowhere on the form to itemize "other" fees and there should be space for this because people pay fees such as copy fees, process service fees, and DVD fees. It is suggested that a section be added on the back of the form for itemization of these types of fees. Should space be added for this information?

**D. Safe Delivery of Newborn Forms**

1. CCFD 05, Motion Objecting to DNA Identification Profile or Blood/Tissue Typing Summary Report

The citations at the bottom of the form should be changed to MCL 712.11 and MCL 722.716 because MCL 712.12 was repealed.

Michigan Court Forms Committee Agenda and Materials  
August 23, 2011  
Page 9

Attachments

cc: Steven D. Capps  
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Judicial Information Systems  
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