



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

October 12, 2011

MICHIGAN COURT FORMS COMMITTEE  
Family Division Section  
Minutes of September 15, 2011 Meeting

Present: Hon. Kay Behm, Genesee County Probate Court  
Hon. Christopher Dingell, Wayne County Probate Court  
Hon. Frederick Mulhauser, Emmet/Charlevoix County Probate Court  
Hon. Thomas Slagle, Dickinson County Probate Court  
Richard L. Smart, 3<sup>rd</sup> Circuit Court  
Amy Garoushi, State Court Administrative Office (staff)  
Jennifer Warner, State Court Administrative Office (staff)

Absent: Wendy Campau, Federal Compliance Division, DHS  
Jerome Colwell, Barry/Eaton County DHS  
David C. Rauch, Court Administrator, Charlevoix County Probate Court  
Karen Snyder, 37<sup>th</sup> Circuit Court  
Shelley Spivack, Referee, 7<sup>th</sup> Circuit Court

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Meeting called to order at 9:30 a.m.

The committee agreed that the following forms requiring minor changes, such as spelling, citations, grammar, punctuation, etc., 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)

The committee discussed whether these forms should be changed so they are similar to the adult personal protection orders (PPOs) and include information 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. It was suggested that information like that on the adult PPOs be on the minor PPOs but be geared toward juvenile proceedings. Committee members noted there are different rules for minors in personal protection matters. Some committee members also noted that issues involving juvenile PPOs do not arise frequently. Accordingly, the committee decided the forms should not be revised.

The committee also discussed whether adult procedures apply in personal protection matters when the respondent is 17 years old, but not yet 18. The committee remarked that, if the person is age 17 or older, then he/she is an adult for purposes of personal protection actions.

The forms were unchanged.

2. New Form, Jury Demand

The committee considered a suggestion to develop this new form. Members were advised that the Michigan Court Forms Committee, Probate Section, decided at its September 1, 2011 meeting that the form should not be created for the following reasons:

(1) MCR 2.508(B)(1) says that jury demands can be included in a pleading if notice of the demand is included in the caption of the pleading and, if a jury demand is not included in the caption of the pleading, then the court should not accept the pleading.

(2) A new form may create unnecessary paperwork for the courts because certain courts prefer that a form be used, if one is available, but litigants will still be able to demand a jury trial in their pleadings pursuant to the court rule because the form's use will not be mandatory.

(3) The proposed form is a civil form and could be confused with criminal jury demands where there is no fee, which could cause problems.

Committee members noted the form would likely not be used often in family division matters. Therefore, the committee agreed that the form should not be developed.

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

The committee considered drafts of these forms that were developed by the SCAO for use in conjunction with amendments to the Sex Offenders Registration Act (SORA), effective July 1, 2011. The drafts were published for a 30-day public comment period to elicit input before being presented to the committee for discussion at the meeting. Upon reviewing the drafts, some committee members questioned whether "Date of offense" on the order, MC 406b, is actually the date of adjudication and, if so, whether this language should be changed. SCAO staff pointed out that, as of July 1, it does not

matter when the offense or adjudication actually occurred because, once the person meets the criteria for removal from the registry, then the person can file a petition. It was further noted that perhaps this is really a training issue for the courts. SCAO staff remarked that the form was developed internally and was published for a 30-day public comment period, with only one comment being provided. A committee member also explained that “Date of conviction” is something the court can confirm, whereby “Date of offense” necessarily is not. After much discussion, the SCAO acknowledged that “Date of offense” was likely an oversight and should be changed to “Date of conviction/adjudication.” Therefore, the committee approved the draft forms, but changed the order (MC 406b) to say: “Date of conviction/adjudication” rather than “Date of offense.”

The forms were approved as revised.

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

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

The committee discussed a suggestion to include information from MCL 712A.2(b) on this form. It had been proposed that 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).” A draft form was presented to the committee that included a new page 2.

Upon reviewing the draft form, some committee members noted that it is not very common to see more than one mother in these cases, but it is common to see more than one father and more than four children. Accordingly, it was suggested there be more space on the form for father’s names and children’s names. It was also questioned whether the SCAO provides the courts guidance on how judges should handle these sometimes complex cases (with many children and various fathers and/or mothers). SCAO staff remarked that the local courts should decide what works best for them – that is, whether to organize the cases by child, father, or mother. Some committee members recommended that perhaps the form be changed to allow more choices and flexibility for the courts – for example, the ability to simply circle whether it is the father or the mother, etc. However, other committee members noted that a paper form simply cannot accommodate each and every situation that arises but that the form should be designed to allow as much information as possible.

After much discussion, the committee decided the current form should be redesigned/reorganized and increased to three pages to allow more space. Therefore,



Item 26.d. is a checkbox option with space afterward to provide additional information.

- (3) New item 27 says, “27. Until further order of the court, placement shall continue pending  resumption of the preliminary hearing  pretrial  trial  disposition on \_\_\_\_\_.”  
Date and time
- (4) New item 28 says, “ 28. Other:”

The committee noted that these same changes should be made on JC 11b for consistency purposes.

In light of these changes, a request to add more space in item 30 was accommodated.

Also, “In the matter of” was added to the top of page 4 of JC 11a.

Both JC 11a and JC 11b were approved as revised.

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

The committee discussed a suggestion to combine these two forms due to the amount of combined adjudication and disposition hearings that occur in these types of cases. It was asserted that a combined form would benefit the parties and also save the courts time because only one order (not two) will need to be completed. The committee decided the forms should not be combined because (1) these are separate and distinct hearings and orders – they have separate findings that are required, and (2) MCR 3.973(B) (notice of hearing) does not necessarily permit combining the forms.

Regarding JC 49, the committee discussed a judge’s request to include an option for a no-contest plea. It was explained that a no contest plea is allowed under MCR 3.971. The committee agreed this information would be helpful and revised item 9 as follows:  
“9. After  trial,  admission of plea,  no contest plea, and by  a preponderance of the evidence,  clear and convincing evidence, ....”

Form JC 17 was unchanged. Form JC 49 was approved as revised.

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 committee considered a request from the Michigan Probate and Juvenile Registers

Association (pursuant to judges' recommendations) to add a checkbox in 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 was explained that some courts do not order juvenile guardianships under MCR 3.979(B) and, instead, place children in EPIC guardianships. SCAO staff pointed out that adding these checkboxes could cause confusion and may present jurisdictional issues, and that guardianship is already incorporated into the orders as a permanency plan. The committee decided the forms should not be revised.

The forms were unchanged.

5. JC 29, Order to Transfer Case

The committee discussed a court employee's request to add space for the minor's current address. It was 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. The committee noted that this information may be beneficial because case paperwork does not necessarily come to the court. However, rather than revising the form, the committee decided this is really a training issue for the courts.

The form was unchanged.

**Staff Note:** The form was revised to correct the JIS code. (See "Notice of Minor Revisions.")

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

The committee considered 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 was questioned whether the form should have a checkbox option for the court to indicate that child support has either been terminated or continues. The following language was 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 was explained that this language would be helpful because the court would have to explicitly state whether the child-support order continues or is terminated. Some committee members remarked that "competent jurisdiction" is not really an issue the court should address and that should instead be addressed by the

motion of a party in the proper court (and the proper court may be in another county). It was also suggested that perhaps a use note be added indicating that the order does not invalidate an existing support order in another case. The committee then reviewed MCR 3.977(J) and a respondent's rights following termination. It was suggested that, rather than attempting to revise the form, respondents be given an advice of rights form and that perhaps the court rule should be changed to reflect the ruling in *Beck*. One committee member expressed hesitance to include information about what the order does not apply to, saying this type of language is unnecessary and would only create confusion. After much discussion, the committee concluded this is not a forms issue at all and should be referred to a work group for further discussion.

The committee considered a suggestion from Kent County to add the following language 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 was 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. The committee questioned to whom the records are being released and why this is occurring after termination of parental rights because it should really be on the notice. Other committee members wondered how ordering the release of records can make people more careful about what is actually sent. It was also noted that committee member Wendy Campau, although not present at the meeting, provided a written comment that the Federal Compliance Division of DHS does not necessarily agree with this suggested change and further clarification/review is needed. Accordingly, the committee declined to make this change and referred the issue back to Kent County for clarification.

The form was unchanged.

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

The committee considered a suggestion to review the authority for indicating that this form must be filed in order to receive payment. The committee was advised that the SCAO researched the issue prior to the meeting and concluded there is no authority for the note in court rule, statute, administrative order, or memorandum and therefore recommended the note be removed. The committee agreed and deleted the note.

The form was approved as revised.

8. JC 94, Annual Report of Juvenile Guardian

The committee discussed a request from the Michigan Probate and Juvenile Registers Association to revise this form because it was asserted that some juvenile guardians are not serving the report on the parties, as required by MCR 3.979(E). It was suggested that (1) a note be added to the bottom of form indicating that the report must be served on the interested parties and (2) space be included for listing the people who are served. SCAO staff pointed out that another option is to include a note at the top of the form regarding service and to indicate that JC 12a or 12b can be used for proof of service. It was also questioned who should be served with this form. One committee member suggested that this issue should really be addressed by examining the court rule and not necessarily revising the form, and other committee members agreed. After considerable discussion, the committee decided the court rule should be reviewed and the form should not be revised at this time.

The form was unchanged and the issue was tabled.

9. JC 104, Order Discharging Juvenile Guardian

The committee discussed a suggestion to add an option for dismissal and discharge of the guardian in circumstances where the child has died. The committee remarked that maybe an "Other" option should be on the form. But some committee members commented that "Other" inaccurately suggests options other than death. It was also noted that the entire case should be dismissed if the child has died, the child's death does not necessarily involve just the discharge of the juvenile guardian, and perhaps this is the incorrect form for this type of information. After much discussion, the committee determined this change is unnecessary, primarily because the first checkbox option in item 2 suffices for this purpose (e.g., indicating the child has died).

The form was unchanged.

10. New Form, Order Following Hearing Regarding Putative Father

The committee considered a judge's suggestion to develop this form because currently there is no order after a hearing on a putative father's rights. It was explained that this order can be issued pursuant to MCR 3.912(D)(2), and that a statewide form will help alleviate any confusion and will create uniformity in these cases. The committee reviewed the draft that was provided and agreed a statewide form for this purpose would be beneficial. One committee member noted that this information is typically on his court's order of adjudication, order of disposition, or pretrial order. Another committee member noted that he often makes these types of findings on the record, but that it definitely would be helpful to have them in a separate form. The committee acknowledged that it liked the idea of the form being separate and approved the draft

that was presented, with one change: the form's title was changed to "Findings Following Putative Father Hearing." The SCAO agreed to typeset the form and present it to the committee during the forms review process. Judge Thomas Slagle, committee member, noted that his court has its own order and agreed to provide it to the SCAO for consideration and guidance when the new form is being typeset.

The development of the new form was approved as revised.

### C. Adoption Forms

#### 1. PCA 301, Petition for Adoption

The committee discussed a probate court employee's request to add a section similar to item 1 after the petitioners' signatures in adoption of state ward (AM) cases that involve neglect/abuse and other cases where notice must be sent to the prior court. It was noted that if the adopting parents are listed in item 1, then it does not make sense to have a checkbox in item 6 saying the parents are "unknown." SCAO staff pointed out that the person who made the suggestion was contacted prior to the meeting for more detail on the suggestion. SCAO staff explained that the primary concern is in neglect/abuse cases and that adoption workers do not want the case numbers to be made public (to the petitioning person) in neglect/abuse situations. It was also pointed out that the items on the form do not necessarily flow logically. Some committee members remarked that this form is not used in direct adoptions but can be used in stepparent adoptions, etc. In particular, the committee questioned the accuracy/necessity of the "unknown" language in item 6. After much discussion about the logical flow and accuracy of the form, the committee decided that item 6 should be revised as follows.

"6.  a. The adoptee's parents are

|                           |                     |                           |                     |
|---------------------------|---------------------|---------------------------|---------------------|
| _____<br>Father's name    | _____<br>Birth date | _____<br>Mother's name    | _____<br>Birth date |
| _____<br>Address          |                     | _____<br>Address          |                     |
| _____<br>City, state, zip |                     | _____<br>City, state, zip |                     |

b. The rights of the parents have been terminated by a court of competent jurisdiction and parental rights are vested in \_\_\_\_\_."   
Name and address of court or agency

The committee also addressed a question regarding the accuracy of the checkboxes in the form's title – " Stepparent  Related Within 5<sup>th</sup> Degree  Other (Excluding Direct Adoption)." It was 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. Some committee members remarked that this is a training issue for the courts. The committee reviewed the form and determined that the form's title does not need changed.

The form was approved as revised.

2. PCA 320, Order Placing Child after Consent

The committee discussed a probate court employee's suggestion to include an option at the top of the form for instances where the adopting parents do not know the birth name of the adoptee. It was 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." Committee members remarked they could not think of a circumstance where the name of the child would not be known in a consent adoption. The committee noted that a statewide form is not needed for this purpose because this situation does not happen very often. Instead, the committee indicated the issue should be handled locally, as needed.

The form was unchanged.

3. PCA 340, Statement of Identifying Information

The committee approved a probate court employee's suggestion to insert a checkbox before item 5 because it is optional. The committee agreed that items 1 through 4 apply to every adoption case but that item 5 does not apply to every case because a court-appointed guardian is not a requirement for placement.

The form was approved as revised.

4. PCA 347, Petitioner's Verified Accounting

The committee considered a probate court employee's request that this form be reviewed for clarity and accuracy. It was asserted that (1) case workers have difficulty properly filling out the form 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." The committee discussed the suggestion that was proposed and made the following changes.

(1) Deleted the checkbox at the top before "Except for those payments or disbursements ...."

(2) Inserted “in the amount of \$ \_\_\_\_\_” after “... listed in my 7-day accounting” in the language at the top that begins “Except for those payments or disbursements ....”

The committee discussed a recommendation to add space for birth certificate fees, although such fees are not required for an adoption to be processed. It was asserted that some courts accept the birth certificate fee along with the court filing fee, then the court issues a check to the Michigan Department of Community Health Vital Records Division. The committee considered whether birth certificate fees should be added to the list in Type 9. The committee questioned what costs are actually cited in the statute, MCL 710.54(3), and noted that birth certificate fees are not. It was also suggested that the costs of birth certificates be included in Type 8, but the committee declined to do this as well. Some committee members also noted that if a birth certificate fee is paid, there should be a receipt issued to the payer. Other committee members proposed that a use note be added to the bottom of the form to indicate that birth certificate fees are not included on this form. It was also suggested that courts discontinue the practice of accepting these fees and cutting checks to the MDCH. After considerable discussion, the committee determined that birth certificate fee information is not required and therefore declined to include it on the form.

The committee considered a requested to include space for actual fees that are paid. It was asserted there should be space for “other” fees such as copy costs, process server fees, etc. The committee agreed that space should be included for these types of fees and made the following changes.

(1) Changed item 9 on the first page to say “Other.”

(2) Added “Type 9. Other - includes copy costs, process server fees, etc.” on the back page (Itemized Accounting of Payment/Disbursements).

The form was approved as revised.

**Staff Note:** The word “petition” in the note at the bottom of the form was replaced with “accounting” to accurately reflect the title of the form. Also, during typesetting, the parenthetical “(If this box is checked write NONE in TOTAL below and date and sign the form.)” was deleted because the checkbox to which this parenthetical refers has now been removed. In addition, during typesetting, one line was removed from the grid on the back page to accommodate the new line for “Type 9” information.

## C. Safe Delivery of Newborn Forms

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

The committee approved changing the citations at the bottom of the form to MCL

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712.11 and MCL 722.716 (because MCL 712.12 was repealed).

Meeting adjourned, 2:30 p.m.

Respectfully submitted,

Traci R. Gentilozzi

cc: Steven D. Capps, Director, Trial Court Services  
Anne Boomer, Supreme Court Administrative Counsel  
Sally LaCross, Supreme Court