



Michigan Supreme Court

State Court Administrative Office

Trial Court Services Division

Michigan Hall of Justice

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Jennifer Warner
Director

August 22, 2018

TO: Michigan Court Forms Committee, EPIC Workgroup

FROM: Rebecca A. Schnelz, Forms and Resources Analyst

RE: Agenda and Materials for **September 6, 2018 Meeting**

PLACE: **Michigan Hall of Justice**, 925 West Ottawa St., Lansing, MI 48915

Below is the agenda for the September 6, 2018 meeting of the Michigan Court Forms Committee, EPIC Workgroup. The meeting will be held in room 1S-69 at 9:30 a.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 W. Ottawa St., Lansing, MI 48915.

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

1. Minor Changes

PC 566, Supplemental Testimony to Identify Nonheir Devisees, Testate Estate

A suggestion has been made to remove "Witness" from "Witness signature" beneath the signature line on page 2 for the reasoning provided by the 2016 EPIC Forms Workgroup in regards to PC 565. Below is an excerpt of the 2016 meeting minutes:

The committee discussed the suggestion to remove the word "Witness" from the caption "Witness signature" on page 2. The committee agreed that the words "Witness signature" are confusing and the person filling out the form should sign it. The committee removed "Witness" from the line caption.

Draft provided.

PC 626, Notice of Rights to Alleged Incapacitated Individual

The form will be modified to include the rights listed in MCL 700.5306a(1)(a) and (ff).

Draft provided.

PC 640, Order Regarding Appointment of Conservator

The form will be revised to correct the misspelling of “disability” in paragraph 4.

Draft provided.

PC 662, Letters of Guardianship of Individual with Developmental Disability

The form will be revised to correct the misspelling of “statute” in the first paragraph.

Draft provided.

PC 663, Report of Guardian on Condition of Individual with Developmental Disability

A suggestion was made to add the word “Standby” in front of the word “Guardian” under the signature line for the standby guardian at the bottom of the form.

Draft provided.

PC 684, Application and Order for Appointment of Out-of-State Guardian of Minor

The form is currently missing an explanation of the asterisk in item 5. The form will be revised to insert, “*Also list persons who had principal care and custody of the minor during the 63 days before filing this form.”

Draft provided.

Public Comments:

- PC 566: Agreed . . . good clarification
- PC 626: Agreed
- PC 640: Thank you
- PC 662: Thank you
- PC 663: Agreed . . . good clarification

Deidre K. Robison

Manistee County Probate Register

2. MC 70, Request for Reasonable Accommodations and Response
MC 70a, Review of Request for Reasonable Accommodations and Response

Modifications have been suggested to clarify that these are the forms to be used to request a sign language interpreter. The suggested modification is the addition of a use note to both forms to clarify that individuals needing a foreign language interpreter, except sign language, should utilize form MC 81.

It was also suggested that the forms should be corrected by moving the parenthetical language in subparagraph 3 to the end of subparagraph 4 because the parenthetical language defines the accommodation being requested, not the impairment.

In addition, it was suggested that the header language for the response section on MC 70a be revised to read “Response to Request for Review” to more accurately reflect the form’s purpose.

Drafts provided.

3. MC 81, Request and Order for Interpreter
MC 81a, Review of Request for Interpreter and Order

Modifications have been suggested to insert the words “Foreign Language” before “Interpreter” in the title and section headers of each form to clarify that the form is only for foreign language interpreters. In addition, it was suggested to add a use note to both forms to clarify that individuals needing a sign language interpreter should utilize form MC 70.

It was also suggested that language should be added to paragraph 1 to clarify the time-period for which the interpreter is appointed under MCR 1.111(B)(1).

Drafts provided.

4. PC 557, Notice of Intent to Request Informal Appointment of Personal Representative

A comment was received from a probate register that the second bullet point on the form is incorrect in stating that a person of higher priority may respond to the notice by filing an application for informal appointment as personal representative.

Is it incorrect to have the option on the form? What do courts do when they receive more than one application for an estate?

Public Comments:

- I believe form PC 557, Notice of Intent to Request Informal Appointment, is correct. The person should have higher priority in order for the register to make the priority determination informally by application.

Myla L. Ford
Probate Register
District Court Attorney Magistrate
Sanilac County Probate Court

5. PC 564, Proof of Service

A suggestion was received to modify the layout of the form in order to expand section 2.

Should the form be redesigned to remove writing space under section 4 to accommodate more names under section 2?

Public Comments:

- Perhaps a second page to the form that states:

2. I served by ordinary mail the papers described above on (continued):

with an expanded name-address-date table printed below. Then anyone who needs to continue the proof of service on page 2 can put on the last line of #2 on the original page, "CONTINUED ON PAGE 2".

Very simple solution . . . That's what I do.

Deidre K. Robinson
Manistee County probate Register

6. PC 572, Letters of Authority for Personal Representative

Modifications are suggested to remove the language, "these letters expire _____ (date)." The suggestor states that there is no consistency between courts and that inclusion of an expiration date leads to confusion for third parties, especially banking institutions as they only have that document to rely on and will not cooperate with the PR if the letters of authority have an expiration date. The suggestor further contends that, while the PR may not be in good standing because they have not filed a required document, the letters of authority should not expire unless the PR has been suspended. In addition, it was suggested that the

expiration date is inappropriate because an effect of EPIC was that letters would no longer expire.

The default state of the form is that there is no expiration date. However, MCR 5.202(A) provides a judge with the option to set an expiration date on letters of authority. Therefore, the expiration date language is available as a checkbox option on the form. If the court does not check the box and specify an expiration date, there is no expiration.

Should the expiration date language be removed from the form? Is there a way to word the information on the form to provide clarity for third parties?

Public Comments:

➤ IN REGARD TO THE LETTERS OF AUTHORITY EXPIRATION DATE:

1. No consistency between courts. RESPONSE: True, but I believe it is irrelevant.
2. Inclusion of an expiration date leads to confusion for third parties, especially banking institutions as they only have that document to rely on and will not cooperate with the PR if the letters of authority have an expiration date. RESPONSE: Seems like an expiration date would make it easier for banks since they have a date to rely on. Once expired, then the 3rd party should require updated Letters.
3. While the PR may not be in good standing because they have not filed a required document, the letters of authority should not expire unless the PR has been suspended. In addition, it was suggested that the expiration date is inappropriate because an effect of EPIC was that letters would no longer expire. RESPONSE: I disagree. The court rule allows it.
4. SUGGESTION: I'm not sure of the best way to deal with this situation without more information from those particular banks on why they made that decision. Leave it to the bank to require updated Letters. Possible language: If this box is left blank, then PRs authority terminates/expires pursuant to statute. Or a second check box option stating that "no expiration date ordered".

Myla L. Ford
Probate Register
District Court Attorney Magistrate
Sanilac County Probate Court

- Please note that when an estate is reopened, MCR 5.312(A) states, "...and issue letters of authority with a specified termination date."

If the language and option to check, "These Letters Expire..." is removed from PC 572, the form no longer comports to the Michigan Court Rules.

Deidre K. Robinson
Manistee County Probate Register

7. **PC 625, Petition to Appoint Guardian of Alleged Incapacitated Individual**
PC 675, Petition to Terminate/Modify Guardianship
PC 685, Application and Order for Appointment of Out-of-State Guardian of a Legally Incapacitated Individual

A suggestion was made to update the language on PC 625 and PC 675. Recent revisions to MCR 5.125(22) clarify that minor children are presumptive heirs of the alleged incapacitated individual. The suggestion is to modify the form language for the same purpose. Upon review, PC 685 would require parallel changes to the other two forms.

Should the language on these forms be updated?

Drafts provided

8. **PC 627, Acceptance of Appointment and Report of Guardian Ad Litem of Alleged Incapacitated Individual**

It has been suggested that PC 627 be revised to more specifically set out an alleged incapacitated individual's right to object to DNR and POST orders.

These options are not currently listed on PC 627. However, the options listed in the rest of the statute are. The reason these are not listed currently is that it is believed that the available option on the form to have limits placed on the guardian's powers covers them.

The suggestion is to specifically list the right to object to DNR and POST orders in item 4a on the form.

Should these items be specifically listed on the form?

Draft provided.

9. **PC 638a, Order Regarding Termination/Modification of Guardian**

A. Modifications to this form are suggested to allow a judge to order or redirect child support. This option is already included on PC 653, Order Regarding Appointment of Guardian/Limited Guardian of a Minor.

Should language regarding child support be added to the form?

- B. An additional suggestion was made to correct the form to include an option for dismissal of the petition. An option for “dismissal/withdrawn” is included in the order portion for the form, but not under the findings portion.

Should a dismissal option be included in the findings section of the form?

Draft provided.

10. PC 650, Petition for Appointment of Limited Guardian of a Minor
PC 650i, Petition for Appointment of Limited Guardian of Minor Indian Child
(Voluntary Guardianship)
PC 651, Petition for Appointment of Guardian of a Minor
PC 651ia, Petition for Appointment of Guardian of Minor Indian Child (Voluntary
Guardianship)
PC 651ib, Petition for Appointment of Guardian of Minor Indian Child (Involuntary
Guardianship)

A deputy probate register has suggested modifying these forms to include a field for information regarding any former names of the guardian. The suggestor states that this information is necessary to obtain a complete background check on the guardian through MDHHS. Without the information, potential records involving the proposed guardian could be missed.

The suggested change is to add a space to include former names under paragraph 8 where the name of the proposed guardian is provided.

Should the minor guardianship petitions include a space for requesting information on former names of the proposed guardian? Are courts currently performing background checks and, if so, where are they getting their information from and how is the information on the petition provided to the person or agency performing the check?

11. PC 658, Petition for Appointment of Guardian, Individual with Alleged Developmental
Disability
PC 679, Order Appointing Emergency Temporary Guardian for Person with Alleged
Developmental Disability

- A. A suggestion was made that checkboxes should be added to indicate whether the guardianship is partial or plenary.

Can you appoint a partial or plenary temporary guardian in a developmental disability case? Is MCL 330.1607 written so that this distinction is not an option in a temporary appointment?

- B. A suggestion was made that PC 679 should include language regarding bond for situations where a professional guardian is appointed because bonds are required for professional guardians.

Should language regarding bond be added to the form?

Draft provided.

12. PC 676, Petition to Terminate/Modify Conservatorship

It has been suggested by a deputy court administrator that this form be modified to include space for the last four digits of the protected individual's Social Security number pursuant to MCR 5.125(C)(24)(e) and (25)(a).

The suggestor states that the Social Security Administration is returning the Petition to Modify and Notice of Hearing indicating that without the SSN they cannot locate the protected individual. The petitions are returned too late for proper notice and hearings are being adjourned in order to achieve service.

The last four digits of the SSN are currently included on PC 639, Petition for Appointment of Conservator and/or Protective Order.

Should the last four digits of the SSN be added to the form?

Draft provided.

13. New Form: Petition to Exercise Personal Representative's Powers **New Form: Order to Exercise Personal Representative's Powers**

New forms are suggested to allow a conservator to petition to exercise a personal representative's powers pursuant to MCL 700.5426(4).

Drafts provided.

14. New Form: Petition for Authority to Consent to Adoption
New Form: Order Regarding Request to Consent to Adoption

It has been suggested that forms should be created to allow a guardian to request permission to consent to adoption of their ward pursuant to MCL 710.43.

Should forms be created for use in this situation?

Examples provided.

15. New Form: Notice of Public Administrator's Intent to Seek Appointment as Personal Representative

It has been suggested that a new form be created for use by state or county public administrators to provide the notice of intent to seek appointment that is required by MCL 700.3414(5).

Should a form be developed?

16. New Form: Petition to Resolve Disagreement Regarding Funeral Arrangements/Disposition of Decedent
New Form: Order Regarding Funeral Arrangements/Disposition of Decedent

It has been suggested by a probate register that petition and order forms be created to assist funeral directors with requesting the court to resolve a disagreement regarding the funeral arrangements and/or disposition of a deceased individual's remains pursuant to MCL 700.3207.

Currently, PC 586, Petition and Order, can be used in this situation.

Should petition and order forms be developed to allow an appropriate individual to petition the court for resolution of a disagreement of the disposition of a decedent's funeral arrangements and/or remains?

17. New Form: Petition to Unseal Secret Marriage
New Form: Order Regarding Petition to Unseal Secret Marriage

A suggestion was received to create forms for use by individuals seeking to have a secret marriage unsealed pursuant to MCL 551.203.

Should petition and order forms be created to request the court to unseal a secret marriage?

18. New Form: Testimony Regarding Interested Persons in a Guardianship/Conservatorship

A suggestion was received to create a testimony form to identify interested parties for guardianship and conservatorship cases, similar to what is used in decedent estates.

Should such a form be developed?