



## **Michigan Supreme Court**

State Court Administrative Office

### **Trial Court Services Division**

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### **MICHIGAN COURT FORMS COMMITTEE**

Adoption Work Group

Minutes of February 22, 2018 Meeting

Present: Kelly Barum, 3rd Circuit Court  
Mary Conklin, Conklin Law Firm  
Elizabeth Eggert, Sault Tribe ICWA Representative (Phone)  
Honorable Patricia Gardner, Kent County Probate Court  
Talia Goetting, GC Law Group, PC  
Mary Haskamp, Kalamazoo County Probate Court  
Monica Hicks, Washtenaw County Trial Court  
Cathe Hoover, Michigan Department of Health and Human Services  
Honorable Janelle Lawless, 30th Circuit Court  
Melissa Neckers, Miller Johnson PC  
Erin O'Brien, 6th Circuit Court  
Carol Rochester, Judicial Information Services (Staff)  
Sheryl Doud, Trial Court Services (Staff)  
Robin Eagleson, Trial Court Services (Staff)  
Rebecca Schnelz, Trial Court Services (Staff)  
Matthew Walker, Trial Court Services (Staff)

Absent: Amy Billmire, Michigan Legal Help  
Dion Roddy, Law Office of Dion E. Roddy PLLC  
Noah Bradow, Trial Court Services (Staff)

#### **1. Minor Changes**

##### **PCA 302, Supplemental Petition and Affidavit to Terminate Parental Rights (Stepparent Adoption)**

The committee corrected a typographical error in item 1 by replacing "name" with "named."

The committee also discussed the comments of committee member Elizabeth Eggert. Ms. Eggert suggested adding a checkbox item to this form to identify whether the child is an Indian child. Committee members pointed out that there is a checkbox in the case entitlement indicating whether the adoptee is an Indian child. In addition, this form is used in conjunction with a petition for stepparent adoption, which has an item that indicates whether the adoptee is an Indian child. For those reasons, the committee did not think a separate item was necessary.

The form was approved as revised.

### **PCA 304, Order Terminating Parental Rights (Stepparent Adoption)**

The committee corrected a typographical error in item 2 by removing a stray comma.

The committee also discussed the comments of committee member Elizabeth Eggert. Ms. Eggert suggested adding a checkbox item regarding required findings for termination of parental rights in MCL 712B.15. The committee discussed that the pending Michigan Supreme Court case, *In re Williams* (docket number 155994), may impact any language that would be included on this form or other form. Instead of revising this form now, committee members agreed that it would be prudent to wait until *In re Williams* is decided and then determine if form changes are necessary. Therefore, no additional revisions were made to the form.

The form was approved as revised.

### **PCA 318, Order Terminating Parental Rights/Rights of Person In Loco Parentis After Release or Consent**

The committee corrected citation MCL 710.55(1) to MCL 710.51(1).

The form was approved as revised.

## **2. Deletion Review**

The committee reviewed the following forms for deletion:

<b>Form</b>	<b>Last Revision</b>
PCA 306, Release of Child by Child Placing Agency	11/05
PCA 313, Petition to Issue Notice of Intent to Release or Consent	9/07
PCA 314, Notice of Intent to Release or Consent	9/07

PCA 326, Order Authorizing Foster Care Funding After Release	9/07
PCA 334, Clerk's Report to Prosecuting Attorney	9/07
PCA 336, Order to Determine Custody of Child Temporarily Placed for Adoption	9/07
PCA 341, Final Order Allowing Fees and Costs	9/07
PCA 345, Statement of Services Performed by Agency/Department of Human Services	9/07
PCA 351, Order Following Hearing on Review of Adoption Placement (IV-E Eligibility Compliance)	9/07

Members agreed that all of the forms listed should be maintained with the exception of PCA 326, Order Authorizing Foster Care Funding after Release. Members were unfamiliar with this form and its usage. Members from the Department of Health and Human Services commented that PCA 326 may be used at the Department and stated that they would inquire about the form with other stakeholders.

Pending the DHHS inquiry into the usage of PCA 326, members agreed that the form should be deleted.

The committee also considered modifications to PCA 313. SCAO staff pointed out that this form is the ex parte petition referenced in MCL 710.34(1); however, the title of the form does not indicate it is filed ex parte. Members agreed that the form should indicate that it is filed ex parte, especially because form PCA 314 references an “ex parte petition” in item 1. The committee changed the title to PCA 313, Ex Parte Petition to Issue Notice of Intent to Release or Consent. The committee also removed citation MCL 710.33 from the footer because it was not relevant to the form.

**STAFF NOTE:** After discussion with additional SCAO Trial Court Services Analysts, PCA 326 will be retained. At the time of this writing, an on-going discussion about foster care funding with adoption is happening. Given this, deletion of PCA 326 could unnecessarily exacerbate funding issues.

**3. New Form Request: Petition for Adoption (Stepparent Adoption)  
PCA 301, Petition for Adoption**

In 2017, committee members suggested removing the stepparent adoption options from PCA 301 and creating a new stepparent adoption petition. At that time, the committee agreed that such a change would be helpful to the legal community and clarify the process.

SCAO staff presented a draft petition for stepparent adoption and asked if the committee still agreed that a petition for stepparent adoption would be beneficial. The committee agreed that the petition would be beneficial.

**New Form: Petition for Stepparent Adoption**

Using PCA 301 as a base, the committee began creating the new petition. The committee agreed with form number PCA 301b and the title “Petition for Stepparent Adoption.” The checkboxes for Stepparent, Related Within 5th Degree, and Other were removed from the title block because those options will not be used with the new petition.

The committee considered removing the checkbox option about the stepparent’s spouse joining the petition for adoption. Members reviewed MCL 710.24 and MCL 710.51(6). Members discussed that MCL 710.24 does not explicitly state that the stepparent and custodial parent must join together in the petition. However, members agreed that a stepparent who is adopting and a custodial parent must always join in the petition together because the custodial parent must agree to the adoption. In addition, the stepparent and the custodial parent will list their information in the next item. Members decided it is unnecessary to have a checkbox indicating that the spouse joins the petition. The committee removed the item and the corresponding use note at the bottom of the page. For the same reasoning, the committee removed the sentence “Each adopting petitioner states:” above item 1 of the form.

The committee also removed the checkbox option for adopting parent in the petitioner information section. Members thought that the adoption parent checkbox is unnecessary because the “Relationship to Adoptee” section would adequately describe who the stepparent is.

The committee reviewed item 2 of the form. Members discussed that the language “I desire to adopt:” is confusing because both the stepparent and the custodial are considered petitioners. The committee replaced the language with the statement, “The adoptee is.” The committee also removed the writing space for the adoptee’s current residential address. This writing space is unnecessary on the form because the adoptee would likely be living with the stepparent and the custodial parent.

The committee discussed removing item 5. SCAO staff pointed out that information about the adoptee’s property is required by MCL 710.24(4)(e). Members agreed that the item should be retained for that reason.

The committee reviewed item 6 of the form. Members agreed that item 6b regarding the termination of parental rights is unnecessary on this form. Members removed item 6b and the checkbox for item 6a.

The committee discussed removing item 7. SCAO staff pointed out that information about any guardian of the adoptee is required by MCL 710.24(4)(g). Members agreed that the item should be retained for that reason.

The committee reviewed item 8 of the form regarding how long the adoptee has been living with the petitioners. Members agreed that it is not necessary on this form because the adoptee would likely be living with the petitioners for the entire time prior to filing the petition.

The committee reviewed item 9 of the form, which indicates the noncustodial parent has failed to provide support or failed to visit. Members agreed that the item should be retained because the petitioner must request termination of parental rights of a living, noncustodial parent. The item should remain a checkbox option because it may not apply if a parent is deceased.

The committee discussed removing item 10 from the form, which references MDHHS and child-placing agencies. Members agreed that the item should be removed because it is not relevant to stepparent adoptions. The committee removed the item.

The committee discussed removing item 11 from the form, which states that a petitioner is married but the spouse is not joining in the petition. Members discussed that the custodial parent must join the stepparent in the petition. The committee retained the item for the reasoning discussed earlier in this agenda item regarding the checkbox option for a spouse joining the petition.

The committee discussed item 13, which requests the termination of all existing parental rights inconsistent with the order of adoption. Members agreed that the item should be retained because the petitioners must request this for entry of the order of adoption.

The committee discussed item 14, which allows for the petitioners to request that the adoption be completed immediately. Some members commented that this item should be removed because a stepparent adoption cannot be completed immediately—termination of parental rights must occur first. Members remarked that this makes the item confusing for members of the public. Other members commented that, while it is true that the adoption cannot be completed immediately, the information on the petition notifies the court that the

proceeding should be expedited for some reason. Members agreed to retain the item, but replaced the words “completed immediately” with “expedited.”

The committee discussed removing item 15 from the form, which references waiver of the required investigation because the adoptee is in foster care. Members agreed that the item does not apply to stepparent adoptions. The item was removed from the form.

At the end of page two, the committee removed the Agency Contact Information section from the form because it does not apply to stepparent adoptions.

The committee discussed items 16 and 17 on page three of the form, which reference orders to investigate or waive investigation of the adoption. Members agreed that both items should be retained as an option because many courts order investigations in stepparent adoptions, but some do not. The committee removed the second sentence in item 17 because it references a foster family study, which is not relevant to a stepparent adoption.

The committee discussed item 18, which references notice provisions provided in MCR 3.800. Members mentioned that the item states that notice should be given in accordance with MCR 3.802(A)(3), but thought that a reference to MCR 3.807 should also be included in this item. The committee added the words “and MCR 3.807(B)” after MCR 3.802(A)(3) to the form.

The form was approved as revised.

### **PCA 301, Petition for Adoption Changes**

The committee also revised PCA 301 to remove the options applicable only to stepparent adoptions. With a separate petition for stepparent adoption, it is no longer necessary for this form to contain any stepparent adoption options.

The committee removed the checkbox for Stepparent adoption in the title bar. The committee also removed the checkbox option for a spouse to join the petition for adoption and the corresponding use note at the bottom of the form.

The committee reviewed the petitioner information block above item 1. Members discussed the necessity of the checkboxes for adopting parent in the information blocks, given that the form would no longer be used for stepparent adoptions. Members agreed that the checkboxes for adopting parent were not necessary on the form because the relationship to adoptee box should provide the necessary information. The committee removed the checkboxes for adopting parent from the petitioner information block.

The committee discussed removing item 9 from the form, which references termination of parental rights when a parent has failed to provide support or failed to visit the adoptee. Some members remarked that the item should be removed because it only applies to stepparent adoptions. However, other members stated that the item could be used by guardians when petitioning for adoption of a child. For that reason, the committee retained the item and revised it to state, "The parent(s) have failed to provide support or comply with a support order and failed to visit or contact the adoptee for a period of 2 years or more." The committee also added a note stating, "This item applies to petitions being filed by guardians."

The committee also discussed item 18, which references notice provisions provided in MCR 3.800. Members mentioned that the item states that notice should be given in accordance with MCR 3.802(A)(3), but thought that a reference to MCR 3.807 should also be included in this item. The committee added the words "and MCR 3.807(B)" after MCR 3.802(A)(3) to the form.

The form was approved as revised.

**STAFF NOTE:** On the Petition for Stepparent Adoption, the adoptee's current residential address was retained in item 2 because it is required by MCL 710.24(4)(b).

On PCA 301, a note was added to the top of the form stating "For stepparent adoptions, use form PCA 301b." The checkboxes for adopting parent were retained on PCA 301 to allow the petitioner to specify who is adopting if the petitioners are a same-sex couple.

After further consideration, item 9 was removed from the form. MCL 710.51(6) only applies to stepparent adoptions and not guardians. Therefore, the item is not appropriate for guardians.

**4. PCA 321, Order of Adoption**  
**PCA 321b, Order of Adoption**

The committee considered modifying item 7 of this form to include both the adoptee's birth name and adoptive name. Members agreed with the public comments concerning this item, stating that MCL 710.59 does not allow an adoptee's birth name to be included on the order of adoption. Members also commented that some courts have issues with the Social Security Administration and changing an adoptee's name on a social security card, but some courts do not have issues. From the discussion, it is unclear why some have issues, but some do not.

The forms were not revised.

**5. PCA 354, Out-of-Court Release of Child by Parent  
PCA 355, Out-of-Court Consent to Direct Placement Adoption by Parent**

The committee considered modifying these forms to include questions regarding Indian child status. Members agreed with the suggester that because out-of-court releases and consents are taking the place of live testimony, there is no record made that the Indian child status questions were addressed by the attorney representing the parent executing the out-of-court release and/or consent. By adding information about Indian child status to these forms, a record would be created. Members noted that while these forms are not for use with Indian children, it is important that a record is created indicating that adoptee is not an Indian child.

Initially, members considered incorporating the Indian child status questions utilized in form PCA 356 into these forms. After further consideration, the committee agreed that it would be simpler to include a statement on each form indicating that the child is not an Indian child.

Because there was little meeting time left, the committee charged SCAO staff with deciding the language and placement of the statement.

The forms were approved as revised.

**STAFF NOTE:** These forms were held due to court rule amendments to MCR 3.804, 3.809, 3.971, and 3.977 in ADM file 2016-09.

**6. New Form Request: Petition and Order for Adult Adoption**

The committee considered creating separate petitions and orders for adult adoptions. SCAO staff stated that caseload reports indicate that 229 adult adoptions were filed in 2015 and 252 adult adoptions were filed in 2016.

Based on the caseload reporting numbers, the committee did not think that separate petitions and orders for adult adoptions were necessary. No forms were created.