



Michigan Supreme Court

State Court Administrative Office

Trial Court Services Division

Michigan Hall of Justice

P.O. Box 30048

Lansing, Michigan 48909

Phone (517) 373-4835

Jennifer Warner
Director

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MICHIGAN COURT FORMS COMMITTEE Delinquency and Designated Workgroup Minutes of September 27, 2018

- Present:** Honorable Kristin Bakker, Gratiot County Probate Court
Mr. Peter Brown, 30th Circuit Court
Ms. Sarah Goad, MDHHS
Mr. Michael Kiehne, Michigan Legal Help
Mr. Jeffrey Perry, Cass County Prosecutor's Office
Ms. Amanda Pollard, 56th Circuit Court – Family Division
Mr. David Rauch, Charlevoix County Probate Court
Ms. Kerrie Summerhill, Van Buren County – MDHHS
Honorable Tina Yost-Johnson, 37th Circuit Court, Calhoun County
Ms. Carol Rochester, Judicial Information Services (Staff)
Mr. Noah Bradow, Trial Court Services (Staff)
Ms. Sheryl Doud, Trial Court Services (Staff)
Ms. Robin Eagleson, Trial Court Services (Staff)
Ms. Rebecca Schnelz, Trial Court Services (Staff)
Mr. Matthew Walker, Trial Court Services (Staff)
- Absent:** Ms. Kathleen Allen, 3rd Circuit Family Division – Juvenile
Ms. Soleil Campbell, MDHHS
Mr. Roderick Porter, 30th Circuit Court
Mr. Tim Schalk, Judicial Information Services (Staff)

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

The committee considered adding a note to MC 70 and MC 70a to clarify that these forms are used to request a sign language interpreter. The committee agreed that the note would be beneficial because individuals often mistakenly believe sign language interpreters equate with foreign language interpreters. The committee added the following to both forms in the area above the applicant information grid: “Note: For foreign language interpreters (except sign language) use form MC 81.”

The committee also considered removing the parenthetical from item 3 on both forms that specifies examples of sign language that can be requested. SCAO staff noted that sign language technology changes frequently, so the parenthetical may not always reflect appropriate options. Under the ADA, the requester must know and request the specific accommodation he or she needs. Therefore, the committee agreed that it is not necessary to include a list of examples for sign language. The committee removed the language in question from both forms.

The committee considered draft language on MC 70a to modify the title of the order section by adding the words “To Review” at the end. The committee agreed that the modification helped to clarify that the decision reflected in the order portion was following a review and accepted the change.

The forms were approved as revised.

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

The committee considered a suggestion to insert the words “Foreign Language” before “Interpreter” in the title and section headers of each form to clarify that the forms are only for requesting foreign language interpreters and not sign language interpreters. The committee approved the suggestion as well as adding a use note to both forms to clarify that individuals needing a sign language interpreter should utilize form MC 70.

The committee also considered modifying item one on both forms to clarify the time period for which the interpreter is appointed under MCR 1.111(B)(1). Under the court rule, an interpreter may be appointed for various individuals for various hearings and the form does not specify the period of the appointment. SCAO staff noted that there have been issues with courts requiring parties to file a request prior to every hearing, which creates additional obstacles for those individuals. The committee agreed that clarifying the length of

appointment would be helpful. The committee approved the draft language and an additional option of “[] from _____ to _____”.

The forms were approved as revised

3. Hearing Location and Jurist

The committee considered a suggestion to revise the notice of hearing section on court orders to include a writing space for the jurist (judge or referee) and the location, including courtroom. The suggestor stated that many parties in their court report to the judge’s courtroom for a hearing, but are scheduled before a referee. SCAO staff noted that this suggestion would effect a number of forms including: JC 10, JC 14a, JC 14b, JC 59 and JC 89.

Members discussed the varying ways that their courts provide information about the next hearing. Some courts prepare a JC 45 for every hearing, regardless if it is required or not. Others write in the hearing information on the current order forms, or give clear notice of the next hearing on the record, or both.

While members recognized that parties not knowing the location of their hearing can be an issue, the committee agreed that revising the forms would not resolve the problem. They noted that parties frequently do not read the orders in detail and frequently rely on their attorney to tell them the hearing information. The committee did not support modifying the order forms with the information.

The form was not revised.

4. JC 04a, Petition (Delinquency Proceedings)

A. The committee considered removing the option to authorize a petition (item 9) from the form. The reasoning behind the suggestion was that courts should be utilizing JC 10 to authorize petitions.

Members voiced a variety of concerns with changing item 9 because the suggested modifications would significantly change current business processes, create additional work, and negatively affect a judge or referee’s ability to quickly reference authorization dates when there are multiple petitions.

Current practice varies among courts as to when and whether JC 10 is utilized following a preliminary inquiry. Proper procedure is that JC 10 is prepared following a preliminary hearing. However, some courts prepare JC 10 immediately and sign it at the hearing

while others have a lag time before JC 10 is prepared. Comments submitted regarding the form noted that some courts do not create JC 10 following a preliminary inquiry because it isn't necessary and it can be confusing to the parties in that situation because the majority of the form is geared toward detention issues.

SCAO staff noted that delaying the issuing of JC 10 might lead to confusion because there are then two authorization dates for the same petition, the date of the JC 04a signature and the date of the JC 10. Courts wish to record as early an authorization date as possible due to case age requirements, and multiple dates may confuse the issue. The committee discussed the possibility of modifying JC 10 to accommodate a prior authorization date and splitting the form into different versions for preliminary inquiry or preliminary hearing. These ideas were rejected because extra work would be required and the issue could be resolved by completing JC 10 at the same time as JC 04a.

The committee decided to table the suggested modification to item 9 to allow time for additional analysis of the issues raised by the committee.

- B. The committee considered a suggestion to modify the title of the form to include a check box for indicating whether the petition is an amended petition and a space for writing in the number of the amendment. Committee members agreed that the addition of the information would be helpful in keeping track of petitions and approved the draft language.

The form was approved as revised.

5. JC 05a, Order to Apprehend and Detain (Delinquency Proceedings/Minor Personal Protection)

The committee considered a suggestion to modify the identifying information section to provide only one line for the Name/Race/Sex information instead of four lines.

The committee agreed that the extra name lines should be removed from the form because in a delinquency case there should only be one respondent in each file.

The committee approved removing all but one of the Name/Race/Sex information lines and modifying the name box in the grid to read "Name/alias."

The committee also considered a submitted comment that the extra name lines be replaced with space for any aliases. The committee agreed that the alias information would be helpful for identification purposes.

The form was approved as revised.

STAFF NOTE: The standard header for second/subsequent pages was added to the form.

**6. JC 08, Bond for Appearance
JC 10, Order After Preliminary Hearing/Inquiry (Delinquency/Personal Protection)**

- A. The committee considered modifying JC 10 to include specific findings and conditions that must be addressed at preliminary hearings pursuant to MCR 3.935(B)(7)(b). SCAO staff noted that forms are usually designed to accurately reflect the flow of any required procedure and JC 10 does not currently fit that pattern.

The findings and conditions that must be addressed under MCR 3.935(B)(7)(b) are laid out in MCR 3.935(C) – (F). The current form does not include any findings under subsection (C) regarding whether to release or detain the juvenile. In addition, the form contains only a general “other” space that some courts use to provide details on release and bail conditions under subsections (E) and (F). SCAO staff noted that some courts do not put any conditions on JC 10 and are using only JC 08, Bond for Appearance, to list the conditions for release and bond information. JC 08 is not an order signed by the judge, so this practice results in there being no order regarding any conditions for release.

The committee discussed MCR 3.935(C), noting that the court can state the reasons for detention or release on the record or in a written memorandum. SCAO staff noted that when a court rule requires something be on the record or in a written memorandum, effort is made to accommodate for those findings on applicable forms. The committee agreed that the form should include an item regarding MCR 3.935(C). The committee approved adding a new item with a checkbox for whether the findings were made on the record and a checkbox with writing space where the findings could be detailed. The committee also noted that the new item should appear at an appropriate point in the form so that the form follows the sequence of the court rule.

The committee discussed whether there was a better way to design the form regarding the probable cause finding required by MCR 3.935(D) when a decision has been made to detain. The committee agreed that item 5 should be modified for use only when probable cause is not found, and that item 9 would be modified with an introductory sentence indicating probable cause had been found, since the findings in item 9 cannot be made until that threshold is met. It was further agreed that items 5 and 6 (regarding detention) should be moved closer to item 9 so that related items are together on the form.

The committee also considered whether the form should be modified to include detailed conditions for release and bond to ensure that the information is in an actual order. The committee did not feel that it is confusing to the respondent to have release conditions in a document other than JC 10. Currently, courts handle the issue of conditions in a variety of ways. They include them in item 18 of the form, prepare a separate order, reference an

attached list of conditions, or include them on JC 08. If they were included on the form, committee members felt that it would not be helpful to have checkboxes for the conditions because standard conditions vary across the state and checkboxes would be impractical. The committee agreed that item 13 would be modified to add checkbox options for whether the conditions are included in item 18, specified in a separate order, or in attached documentation.

The committee also felt it would be appropriate to include the type of bond ordered under the court rule. The form currently only provides a blank space for an amount, and does not provide space for more detailed information. The committee agreed that the types of bond available under MCR 3.395(F) should be detailed in item 14.

The committee considered whether any changes were necessary to JC 08, whether the form was needed at all, based on the modifications to JC 10, or whether the form should simply be an acknowledgement of the bond conditions. Committee members were undecided as to whether modifications to the form would be helpful because they rarely set bond, so therefore do not often see the form.

It was decided that no changes would be made to JC 08 at this time and the form would be reviewed by SCAO staff for a future meeting.

- B. The committee considered removing item 10, item 11C, and item 16 (related to ICWA/MIFPA) from JC 10. The suggestor stated that ICWA and MIFPA do not apply to delinquency and the item should be removed from the form.

The committee disagreed with the suggestor, stating that the items should remain on the form because ICWA and MIFPA apply to status offenses. See MCL 712B.3(b)(v). See also 25 CFR 23.2.

Members discussed whether the form should be modified to clarify that item 10 is for status offenses only. Members disagreed as to whether ICWA findings needed to be made on the JC 10 in instances where the minor becomes a dual ward charged with a non-status offense or in any instance where the juvenile is an Indian child, whether status offense or not.

Discussion was held regarding federal compliance requirements and direction that had been given to at least one court that the delinquency ICWA/MIFPA findings must parallel the neglect findings in dual ward cases. Therefore, it was suggested that a use note regarding status offenses would be incorrect because this could include non-status offense cases. Alternatively, it was argued that requiring the ICWA/MIFPA findings in these situations created unnecessary extra work for the courts.

The issue of adding a use note was tabled to gather additional information on what is required for federal compliance relative to Indian child findings in delinquency and dual ward cases. It was also suggested that input from Indian Affairs be sought.

JC 10 was approved as revised.

No changes were made to JC 08.

STAFF NOTE: During typesetting, additional changes were made to JC 10 to follow the rule more accurately. A new item 7 was added to accommodate MCR 3.935(C), stating

7. In accordance with MCR 3.935(C), the juvenile should be released (see item 8) detained (see item 9) for

the reasons stated on the record.

the following reasons:

The phrase “In accordance with MCR 3.935(C)...” was included to reference the court to the rule. The parentheticals were included to reference the court to other necessary findings on the form. A new item 8 was added to allow the court to specify whether or not conditions are necessary for the juvenile’s release, in accordance with MCR 3.935(E)(1). Item 8 states “[] 8. [] a. The juvenile should be released without conditions. [] b. Conditions are necessary for the juvenile’s release to reasonably ensure the [] juvenile’s appearance in court. [] safety of the public.” Item 8 was phrased in this manner to clearly reflect that conditions are not automatic under MCR 3.935(E)(1) and the court must find that conditions are necessary for appearance or public safety.

Former item 6 was regarding waiver of the probable cause determination was combined into item 9. Item 9 was revised into separate sections. Item 9a reflects the requirement in MCR 3.935(D) that the court finds probable cause exists or that the juvenile was represented by an attorney and waived the probable cause determination. Item 9b lists the circumstances for detention in MCR 3.935(D)(1).

The contrary to welfare findings (former item 8) were moved to item 11, before the reasonable efforts findings.

A new item 13 was created requiring the court to authorize or not authorize the petition. The new item will allow the court to authorize the petition and then use item 14 to place the petition on the consent calendar, as allowed by MCL 712A.2f(3). Authorization language was removed from former items 12, 13, and 14. The words “pursuant to” were replaced with “in accordance with” in item 14.

Item 15 (formerly item 13) was modified to more clearly reflect MCR 3.935(E). A caption stating “Parent/Guardian/Legal Custodian” was added to the writing space. Checkboxes were added to indicate if the release is with or without conditions. Additional checkboxes were added to allow the court to specify if the conditions are listed in item 20, an attached document, or specified in a separate order as requested by the committee. Initially, a checkbox option for bond was nested under the option to release with conditions because MCR 3.935(F) indicates it is an option in addition to other conditions of release. However, the nested design in combination with other language of item 15 made the application of bond unclear. Instead, the sentence “If bond is required as a release condition, the juvenile shall remain in detention/placement until the bond is paid.” The added sentence reminds the court about the option of bond and informs that bond should be listed with the other conditions. In addition, it informs the detention facility that the juvenile should be held until the bond is paid.

The bond option was removed from item 16 (formerly item 14). Item 16 allows the court to specify the detention location. Bond is not an option if the juvenile is being detained. See MCR 3.935(D) and (F).

7. JC 57, Supplemental Order of Disposition (Delinquency Proceedings)

- A. The committee considered a suggestion to add a finding to the form regarding whether the juvenile did or did not violate probation. The form currently includes a checkbox to indicate the hearing was for a violation of probation, but there is no related findings option to indicate whether a violation was found.

The committee approved adding in a finding as to whether the juvenile did or did not violate probation for the reason that the form is intended to be used for that very reason.

During the meeting, an additional suggestion was made to add a reference to the supplemental petition(s) being addressed by the probation violation hearing so that there is a clear connection between the relevant petition(s) and the order.

Committee members felt that referencing the petition number(s) would improve the usability of the form and approved including space where the supplemental petition(s) can be specified. Exact language will be worked out by SCAO staff.

A second suggestion was made during the meeting to modify item 8 to allow a judge or referee to make a finding at a review hearing that the juvenile is making progress toward rehabilitation. At the current time, the form only specifies that the juvenile has not been rehabilitated. Members noted that whether or not the juvenile is making progress is not a

required finding. Some courts rely on the court forms to guide them through required findings and that is typically one of the goals of designing the form. It was noted that there is also space available for writing in item 17 if the judge or referee wishes to make findings regarding progress and that a review hearing does not specifically require an order afterward.

The majority of the committee decided not to make the change regarding the juvenile's progress.

- B. The committee also considered a correction to the form to add references to MCR 3.944 and MCL 712A.18a to the footer. The references pertain to probation violations and out-of-state placement. The committee approved the additions.

The form was approved as revised.

8. JC 59, Order of Adjudication (Delinquency Proceedings)

- A. The committee discussed removing references to "probation officer" from the form and replacing them with "caseworker." The suggestor stated the juvenile would not be on probation or working with a probation officer at this point in the proceeding, so the language is confusing.

SCAO staff noted that upon further review of the suggestion, the modification should actually be removal of any reference to caseworker or probation officer on this order because the juvenile would not yet be on probation. The committee agreed that any type of worker reference should be removed. The committee further noted that the court might place some basic restrictions on the juvenile pending disposition so reference to the court should be added as appropriate in the order portion of the form.

- B. The committee also considered a suggestion to strike the language in item 15b regarding the probation officer approving parenting time because if the child is placed with MDHHS, a probation worker would not be controlling parenting time. In keeping with the removal of references to probation workers under agenda item 8A, the committee recommended also removing references to parenting time in item 15b and 15d because parenting time would be controlled by either the MDHHS worker or the facility where the child is placed.

The committee also noted that the language in items 15b and 15d regarding the parent(s) reimbursing the Child Care Fund does not belong on the form because the reimbursement issue is something to be determined at disposition, not at adjudication.

In consideration of agenda items 8A and 8B, the committee agreed that current item 15a should be modified to remove the word “required” and replace it with “as ordered”, and strike “probation officer” to replace it with “court.”

In item 15b, the committee approved striking the last two sentences. In item 15d, the committee approved striking the two sentences after the placement location. The committee requested that SCAO staff verify the reason parenting time provision was originally included in these two items to ensure that the language does not need to remain.

In item 15e, the committee approved striking the language, “as requested by the probation officer,” and the sentence that follows. The language regarding payment of costs was removed because this is not a dispositional order, which is where any payment order should be made.

- C. The committee considered a suggestion that the language in item 13 should be reviewed to determine whether the adjournment options for “additional testimony” and “other good cause” are necessary on an order adjudicating the case. The suggestion was made to combine item 14 with item 13 and simply state the date and time of the dispositional hearing.

The committee agreed that there was no need to provide hearing date options for additional testimony and other good cause. The committee approved the removal of the options and approved simplifying the language with new item 13 that will read, “The dispositional hearing is set for.” The following items will be renumbered.

The committee also considered a submitted comment that CTN’s should be added to item 5 as a column on the grid so that the form can adequately address the adjudication of multiple petitions. The suggestor stated that SCAO has approved including multiple petitions without CTN identifying charges, but that it is difficult to differentiate between offenses.

SCAO staff noted that the approval regarding including multiple petitions applied to orders of disposition, not adjudication. Committee members discussed possible ways of modifying the grid at item 5, but could not determine an appropriate way to include the CTN without removing information already in the grid or keeping the form from becoming confusing as to petitions and counts. The committee declined to include the CTN numbers in item 5.

The form was approved as revised.

STAFF NOTE: After further review, the language in items 14b and 14d regarding parenting time was retained with modification. Parenting time is required by MCL 712A.13a(13) if a juvenile is removed from a parent's custody. To accommodate the statute as well as the committee's removal of probation officer, the language was revised to state, "Parenting time shall be as ordered by the court."

9. **JC 71, Judgment of Sentence/Commitment to Jail (Designated Case)**
JC 72, Judgment of Sentence/Commitment to Department of Corrections (Designated Case)
JC 74, Order of Probation (Designated Case)

- A. The committee considered a suggestion from Street Democracy, a non-profit legal services organization serving the Detroit area, that multiple forms be revised to include language about payment alternatives under MCR 6.425(E)(3)(b). Pursuant to MCR 3.955, the language regarding payment alternatives would apply to delinquency cases where the juvenile is being sentenced as an adult.

Street Democracy states that many court forms only advise respondents that payments are due at the time of assessment (MCR 1.110), but fail to mention the exceptions listed in MCR 6.425(E)(3). Street Democracy's opinion is that emphasis on immediate payment perpetuates the perception that it is better to avoid court rather than to show up with at least some money.

SCAO staff noted that the draft language provided mirrors changes that were made in the spring by the criminal forms committee and that keeping any changes consistent with the criminal forms would be best.

In keeping with SCAO forms policy, a citation to MCR 6.425(E)(3) will not be added to the footer as suggested on the draft.

The committee approved the draft language regarding ability to pay and placement on the forms.

- B. The committee considered a suggestion to remove the reference to a specific Crime Victim's Rights fund payment amount from item 14 on JC 71. SCAO staff explained that the fee listed is incorrect and it would be more efficient in case of future fee changes to not include a specific amount. A committee member noted that JC 72 also includes a specific payment amount in item 15.

The committee members approved removing "\$60.00" from item 14 on JC 71 and from item 15 on JC 72.

The forms were approved as revised.

STAFF NOTE: JC 71 was further revised during typesetting. To accommodate the committee's changes, an additional page was added. The order section was moved to page 2. Two additional lines were added to the grid in item 3. The word "time" was added as a line caption to item 13 and "m" was removed. Spelling of the word "rehabilitative" was corrected in item 16.

JC 72 was further revised during typesetting. To accommodate the committee's changes, an additional page was added. The order section was moved to page 2. Two additional lines were added to the grid in item 3. Citation to MCL 257.625(20)(a) was corrected to MCL 257.625(21)(a). The 8pt text in items 4 and 5 was revised to 10pt text. Item 7 was reworded to state, "The juvenile's biometric data has been collected according to MCL 28.243 for all offenses punishable by 93 days or more." A parenthetical was added to item 14 stating, "(If this item is not checked, the sentence is concurrent)" to match MC 219, as revised in 2017.

On JC 74, the words "pursuant to" in the grid after item 1 were replaced with "under."

10. JC 88, Order Appointing Next Friend

The committee considered modifying the form to accommodate its use where a minor is a respondent in a PPO case. MCR 3.707(C) requires that for motions to modify, terminate, or extend a PPO, both petitioners and respondents who are minors must proceed through a next friend, as provided in MCR 3.703(F). The current language on JC 88 only accommodates the appointment of a next friend for the petitioner.

A committee member suggested that the form should be kept very simple and perhaps include a request for appointment because people do not know how to request the appointment of a next friend. SCAO staff noted that a separate form for a request might be necessary as SCAO is trying to move away from dual-purpose forms as courts evolve to an electronic document environment.

The committee further discussed the possibility of creating generic forms for the request and appointment of a next friend that could be used in all types of family division cases. It was noted that such an order should include the ability for the court to appoint a next friend on its own motion.

SCAO staff inquired as to whether there was any objection to making JC 88 and any new request form into MC forms, which would be the appropriate index if the forms were to be used generically. The committee had no objection.

The committee approved SCAO looking into whether JC 88 could be made into a generic MC form to appoint a next friend and the development of a generic MC form to request the appointment.

The modification and development of the forms were approved. SCAO will develop draft forms and bring them back to appropriate committee during the 2019 forms cycle.

- 11. JC 01, Complaint (Request for Action, Delinquency Proceedings)**
JC 10, Order after Preliminary Hearing/Inquiry (Delinquency/Personal Protection)
JC 14a, Order of Disposition, In-Home (Delinquency Proceedings)
JC 14b, Order of Disposition, Out-of-Home (Delinquency Proceedings)
JC 16, Request and Order for Fingerprinting/Photographing/Lineup
JC 59, Order of Adjudication
JC 70, Judgment of Conviction (Designated Case)
JC 71, Judgment of Sentence/Commitment to Jail (Designated Case)
JC 72, Judgment of Sentence/Commitment to Department of Corrections (Designated Case)
JC 73, Order Delaying Sentence (Designated Case)
JC 74, Order of Probation
JC 105, Order on Application to Set Aside Adjudication
MC 228, Order on Application to Set Aside Conviction
MC 233, Order for Fingerprints
MC 235, Motion for Destruction of Fingerprints and Arrest Card
MC 262, Order of Acquittal/Dismissal or Remand
MC 263, Motion/Order for Nolle Prosequi
MC 392, Order Regarding Destruction of Fingerprints and Arrest Card

The committee considered whether modifications are needed to the above forms in order to address recent statutory changes regarding the collection of information regarding juveniles.

2018 PA 58 modified MCL 712A.18(10) to require that the court ensure a juvenile's "biometric data" has been collected and forwarded to the appropriate agency before entry of disposition or judgment of sentence. SCAO staff noted that biometric data is defined in MCL 28.241a and includes fingerprints as well as other identifying information.

SCAO staff noted that, pursuant to statute, law enforcement agencies are required to collect biometric data electronically, but only if they have the capability. It was noted that including the requirement to collect biometric data on the forms, and not just ordering fingerprints, may cause some confusion until courts determine what their local law enforcement agencies are capable of collecting. Without knowing what data to expect, the court cannot review the file and make an appropriate determination before disposition as to whether all data possible was

collected. The committee agreed that this will be a training issue that cannot be resolved through the forms.

The forms listed above either include a reference to fingerprints or are used at disposition. SCAO staff noted that JC 74 should be removed from the possible forms to be changed, as it does not include fingerprint information.

SCAO staff also noted that on the following forms, there are specific references to fingerprinting that come from statutes and court rule:

- JC 10: MCL 712A.11 and MCR 3.935(B)(7) specifically reference fingerprinting
- JC 105: MCL 712A.18e(13) specifically references fingerprints

The committee approved the modifying the identified forms by replacing references to “fingerprints” or “fingerprinting” with “biometric data” or the “collection of biometric data.” SCAO staff noted that special attention would be made to the specific references on the form to ensure that any changes are appropriate where the collection of fingerprints is in relation to crimes that would require registration on the Sex Offender Registry. SCAO staff will also check with the Registry as to whether they take biometric data.

SCAO staff noted that the listed forms in the MC index would need to be reviewed by the criminal forms committee in the spring before any changes would be final.

The forms were approved as revised.

STAFF NOTE:

On JC 01, item 23 was revised to state, “Biometric data collected.”

On JC 10, item 6 was modified to state, “The juvenile is charged with an offense that requires collection of biometric data and it has not been collected.” Item 19 was modified to state, “The juvenile’s fingerprints/biometric data shall be collected in accordance with the Order for Fingerprints (form MC 233).”

On JC 14a, item 9 was revised to state, “The juvenile’s biometric data has been collected in accordance with MCL 28.243.”

On JC 14b, item 9 was revised to state, “The juvenile’s biometric data has been collected in accordance with MCL 28.243.” ‘

JC 16 was held for further review.

On JC 59, item 6 was revised to state “The juvenile committed an offense that requires collection of biometric data under MCL 28.243. Biometric data [] has [] has not been collected.”

On JC 70, item 7 was revised to state, “7. The juvenile’s biometric data [] has [] has not been collected in accordance with MCL 28.243. Item 10 was revised to state, “[] 10. The juvenile shall report to the county sheriff within 24 hours for biometric data collection.”

On JC 71, item 7 was reworded to state, “The juvenile’s biometric data has been collected according to MCL 28.243 for all offenses punishable by 93 days or more.”

On JC 72, item 7 was reworded to state, “The juvenile’s biometric data has been collected according to MCL 28.243 for all offenses punishable by 93 days or more.”

On JC 73, item 7 was reworded to state, “The juvenile’s biometric data has been collected according to MCL 28.243 for all offenses punishable by 93 days or more.”

On JC 105, the word “fingerprints” in item 10 was replaced with “biometric data.”

The MC forms were held for consideration by the criminal forms workgroup.

12. 2018 PA 58 and amendments to MC 712A.18(1)

The committee considered the question as to whether recent statutory changes require any form changes and, if so, which forms.

2018 PA 58 amended 712A.18(1) to require the following:

...Except as otherwise provided in subsection (10), the court shall order the juvenile returned to his or her parent if the return of the juvenile to his or her parent would not cause a substantial risk of harm to the juvenile or society...

SCAO staff noted that the changes would be applicable to designated cases where a juvenile disposition is being made as well as non-designated cases.

The committee agreed that the findings are required by statute and should be incorporated into the appropriate forms. Specific language was not decided upon, but the committee noted that any language must reflect a positive finding regarding substantial risk of harm to the juvenile or society.

The committee determined JC 14b would need to be modified. Discussion was held as to whether the finding would be required for a supplemental disposition (JC 57). It was the consensus of the committee that it would be best to make the finding if a child is to remain placed out of the home, and therefore the finding is necessary on any supplementary disposition. The committee agreed that JC 57 should be modified. SCAO staff will incorporate the required findings language appropriately into JC 14b and JC 57.

STAFF NOTE: On JC 14b, a new item 12 was added to accommodate MCL 712A.18 as amended by 2018 PA 58. Item 12 states “12. Return of the juvenile to his or her parents would cause a substantial risk of harm to the juvenile or society.” The new item is not optional and does not have internal checkboxes. The court must make this finding to keep the juvenile out of home and JC 14b is only designed for out-of-home use. Subsequent items were renumbered. Typographical errors were corrected.

On JC 57, a new item 7 was added to accommodate MCL 712A.18 as amended by 2018 PA 58. Item 7 states “7. Return of the juvenile to his or her parents [] would [] would not cause a substantial risk of harm to the juvenile or society.” A new item 21 was added in the order section to allow the court to return the juvenile to his or her parent. Item 21 states, “[] 21. The juvenile is returned to his or her parent(s)/guardian/legal custodian.” This language mimics the new statutory language in MCL 712A.18(1). Subsequent items were renumbered. Item 19 was revised to state “Other findings:” to clarify that the item should be used for other findings.

13. New Form Request – Order After Arraignment (Designated Case)

The committee considered creating a form order for use after arraignment in a designated case because there is currently no formal means to document the arraignment.

Discussion was held as to what should be on the form as far as findings. For arraignments, MCR 3.951 requires the court to make certain determinations regarding detention and release pursuant to MCR 3.935(C), dependent upon the circumstances. For cases where the juvenile is not being sentenced as an adult, MCR 3.951 does not reference determining release or bail conditions as found in MCR 3.935(E) and (F).

The committee agreed, in relation to the determinations required under MCR 3.935(C), the form should mirror what the committee had decided on for the same issue on JC 10.

Committee members discussed that it would seem logical that if the court were making release or detention decisions based on MCR 3.935, the court should then also make decisions regarding bail and release conditions pursuant to the same rule. However, when a

case begins as a prosecutor designated case, it is a criminal proceeding, not a delinquency proceeding, so the question becomes whether the court should proceed under the delinquency or the criminal provisions.

The committee determined it was most appropriate to proceed with the procedures under MCR 3.935 to determine the bail and release conditions because it is not clear in statute whether to proceed under criminal provisions, and the delinquency rules are already brought into designated cases by MCR 3.951.

The committee decided to include the bail and release provisions from JC 10 as modified by the committee and according to MCR 3.935(E)-(F).

It was noted that under MCR 3.951(A)(2)(d) and (B)(2)(d), if the juvenile is in custody or custody has been requested and the arraignment is being adjourned for completion at a later time, in order to detain, the court must find that one of the circumstances in MCR 3.935(D)(1) is present. Unlike a non-designated case, at this point, a probable cause determination does not have to be made under MCR 3.935(D)(1) and would not need to be included on the form.

SCAO staff will create the form based on the committee's recommendations and seek input from Supreme Court counsel on the decision to proceed under the delinquency court rule concerning release or bail in designated cases.

STAFF NOTE: This form was held for further investigation.

14. New Form Request – Publication of Notice of Hearing, Name Change

The committee considered a suggestion to develop a new form for use in the required publishing of notice in name change cases.

MCR 3.613 includes specific requirements for the notice that must be published in a name change proceeding. The rule also includes required notice language in relation to non-custodial parents whose address is unknown.

Some courts currently use PC 563, Publication of Notice of Hearing, for name change cases. This is a generalized form for use in probate proceedings when publication is necessary.

Creation of a specific publication form for name changes was considered by the Michigan Court Forms Committee in 2007. At that time, the committee felt PC 563 was sufficient and declined to develop a new form.

However, concern was recently expressed by a petitioner in a name change case that requiring the use of PC 563 resulted in the publication of information that personally identified her, including her address and cell phone number, because this information is listed on the form for publication.

The committee agreed that a specific form for publication in name change cases would be appropriate in order to ensure that the required information is published and to prevent publication of information that is not necessary.

The creation of the form was approved. SCAO staff will draft an appropriate form and bring it back to the committee for review.