



Michigan Supreme Court

State Court Administrative Office

Trial Court Services Division

Michigan Hall of Justice

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MICHIGAN COURT FORMS COMMITTEE

Adoption Work Group

Minutes of February 28, 2019 Meeting

Present: Ms. Kelly Barum, 3rd Circuit Court
Ms. Amy Billmire, Michigan Legal Help
Ms. Elizabeth Eggert, Pokagon Band of Potawatomi (Phone)
Ms. Talia Goetting, GC Law Group, PC
Ms. Mary Haskamp, Kalamazoo County Probate Court
Ms. Monica Hicks, Washtenaw County Trial Court
Ms. Cathe Hoover, Michigan Department of Health and Human Services
Ms. Erin O'Brien, 6th Circuit Court
Mr. Dion Roddy, Law Office of Dion E. Roddy PLLC
Honorable Tracey Yokich, 16th Circuit Court
Ms. Carol Rochester, Judicial Information Services (Staff)
Ms. Sheryl Doud, Trial Court Services (Staff)
Ms. Robin Eagleson, Trial Court Services (Staff)
Ms. Rebecca Schnelz, Trial Court Services (Staff)

Absent: Honorable Patricia Gardner, Kent County Probate Court
Ms. Melissa Neckers, Miller Johnson PC
Mr. Tim Schalk, Judicial Information Services (Staff)
Mr. Noah Bradow, Trial Court Services (Staff)
Mr. Matthew Walker, Trial Court 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 a suggestion to add space on both forms for information on whether the requester is represented by an attorney and the attorney’s contact information to assist the court when investigating the request. SCAO staff noted that ADA requests are confidential and the court cannot share information with the requester’s attorney unless the attorney contacts the court at the individual’s request. Rather than adding space for attorney information, the committee considered and accepted a suggestion to add the following language to the form: “The court will not inform your attorney of this request.”

A committee member suggested that the language under the signature line on MC 70 should read “ADA Coordinator” to indicate the particular individual that signed the document.

The committee also 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 suggested alternative language of “For Review” and 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 inserting 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.

A committee member suggested that the forms should include the standard masthead and caption information because the document goes into the court file. SCAO staff indicated that they would relay the suggestion and look into whether there was a reason it was not originally included. A request was also made by the committee to prominently add information regarding hearing officer, time, etc. to assist the court in scheduling.

It was noted that, on form MC 81a the use note regarding sign language should cite to form MC 70a.

The forms were approved as revised

3. MC 28, Notice to Prior Court of Proceedings Affecting Minor(s)

The committee considered modifying this form in order to improve its use in adoption cases by adding a new item 1c that would specify whether the order entered was an adoption order. The intent would be to prevent courts from mailing confidential orders of adoption to other agencies because they follow instructions currently on the form at item 1b to mail a copy of the relevant order.

The committee agreed with the suggestion and recommended adding the following language under item 1: “c. An Order of Adoption was entered on _____,” followed by the instruction, “(Do not attach copy of order.)” The committee further recommended adding the following instruction under item 1b: “(non-adoption)”.

In addition, the committee suggested adding the following citations regarding confidentiality to the bottom of the form: MCL 710.68, MCL 710.67, MCL 333.2830, and MCR 3.617.

STAFF NOTE: During typesetting and review of the recommended changes, SCAO staff determined that there were additional questions regarding applicable statutes and court rules that needed to be addressed before any changes were made. This item will be brought back to a future forms work group meeting for further discussion.

4. PCA 305a, Release of Child by Guardian

The committee considered adding a “special acknowledgment” section to this form by using the relevant language from PCA 305. The suggestor noted that there are situations where a guardian may be incarcerated or in the armed services, which would make the release language on PCA 305, derived from MCL 710.29, applicable.

The committee agreed and suggested the special acknowledgement language from page two of PCA 305 be added to the second page of the form, with changes made as necessary to accommodate the release being signed by the guardian, not the parent.

A committee member noted that the citations reference MCL 700.431, which has been repealed and the citation needed to be updated. SCAO staff will correct the citation during typesetting.

STAFF NOTE: A citation to MCL 700.5215(e) was added to the form. After internal discussion the following language was added to page 2 of the form: “Special Acknowledgment. I certify and acknowledge that _____(Name of guardian)_____ is personally known to me, is presently []confined []stationed at _____(Name of place)_____ located at _____(Address)____(City)____(State)____(Zip)_____ and stated that s/he is the guardian of the child. I fully explained her/his legal rights to the child, that s/he did not have to sign this release of her/his rights to the child, and that if s/he did sign this release, s/he would be voluntarily and permanently giving up her/his rights to the child for purposes of adoption. I also explained her/his right to a rehearing or to appeal within 21 days after an order is entered terminating her/his rights. The guardian then voluntarily signed this release.” The standard notary language block was added following the special acknowledgment language.

5. PCA 308i, Consent by Parent to Adoption of Indian Child

The committee considered modifying this form to allow a judge to direct that a parent’s consent required by MCL 712B.13 be given before a different Michigan judge, as provided by MCL 710.44(1). The committee agreed a modification to the form would be appropriate and looked to PCA 308 which includes language directing another judge to take the parent’s consent.

The committee approved using the language from PCA 308 with any references to referee removed because the consent to release for an Indian child must be in front of a judge per MCL 712B.13.

The committee briefly discussed language from MCL 712B.13(1) that requires the consent to be accompanied by the “presiding judge’s” certificate. The committee confirmed its understanding that “presiding” describes the judge taking the consent, and does not refer to the judge assigned to the underlying adoption case. SCAO staff noted that the question may need to be run by Administrative Counsel and the Supreme Court Counsel.

The committee also considered a suggestion received in a comment that the judge certification language be modified to specify that notice had been sent to the child’s tribe as required by MCL 712B.13(1)(b). The stated reason for the suggestion was that notice is not always being made and including the language in the judge’s certification adds one more step to ensure compliance with the statute. The committee members agreed with the suggestion and recommended that item 1 of the certification by judge section should be modified by adding the phrase “to the parties and the Indian child’s tribe” after the word “given,” and a citation to MCL 712B.13 after the court rule.

The committee declined to adopt suggested language received in a comment to add the words “select one” before the checkboxes at the bottom of the form that are used when the parent is an unemancipated minor. The committee also declined to add a colon after “I am the,” and the word “unemancipated” before the word “minor” following the checkboxes. The committee indicated that the additions were not necessary.

A committee member suggested adding the words “guardian ad litem” to the signature line of the minor parent consent area. The committee agreed with the suggestion.

STAFF NOTE: The following language was added at the end of the Certification by Judge section: **NOTE:** The following direction is necessary only if the consent is signed before another judge of the family division of the circuit court in Michigan (MCL 710.44[1]). In other cases, see MCL 710.44(2), (4). I direct that the consent of _____ be signed before the judge of _____ County, Michigan. ____ (Date) _____, _____ (Judge) _____.

The second page header was added to page 2 of the form.

6. PCA 315, Declaration of Inability to Identify/Locate Father

The committee considered a suggestion that PCA 315 be modified to accommodate service when the whereabouts of a noncustodial parent is unascertainable under MCR 3.802(C).

Committee members were in agreement that PCA 315 fits a very specific purpose and they did not wish to see additional information added that would complicate and possibly confuse the form.

Committee members discussed the development of a new form that would act as a notice to a noncustodial parent. The possibility of a dual purpose form that would also act as a motion and order for alternate service on that parent was discussed as well. Concern was expressed about the dual purpose form because the information regarding attempts should be included in information submitted prior to hearing in a manner such as PCA 315.

Opinion was divided as to whether a form for alternative service was needed because the judge could simply order service from the bench at the hearing if needed. Conversely, members noted that some courts are requiring the attorney to file a motion for alternate service and the existing SCAO motion for alternate service form does not accurately reflect the factual and legal situation under MCR 3.802(C).

Following discussion, the committee recommended the creation of a new form, similar to PCA 315, that would address the issue of inability to locate non-custodial parents pursuant to MCR 3.802(C). The committee noted that if a new form is created, then the word “putative” should be added before “father” in the title of PCA 315.

The committee also recommended the creation of a motion and order for alternate service to specifically fit situations that arise under MCR 3.802, or modifying the current alternate service form to adapt it for this situation. A committee member suggested using an ex-parte motion and order for alternate service on noncustodial parent form that was created by one of the counties and had recently been submitted to SCAO for review for use in this situation as a template.

The form was not modified. SCAO will review the recommendations for new forms for a future meeting agenda.

7. PCA 349, Petition for Rescission of Adoption and Order

The committee discussed a suggestion to update PCA 349 to ensure that it includes all information required by MCL 710.66(2) if the information is known. The form currently does not include space for all of the information.

The committee agreed that the form should be updated. SCAO staff will modify the form to comply with the statute.

The committee also suggested that the header name in the caption be modified to indicate something other than “child” such as “adoptee.” SCAO staff will review the statute and update the caption if needed.

STAFF NOTE: The word “child” in the caption line of the header was changed to “adoptee.” Language was added to the form to accommodate the requirements of MCL 710.66. A space for the city, county and state of birth was added following the birth date in item 1. In item 2, the word “current” was added to the caption line before “name,” and the sentence, “My name at the time of termination was _____(Name)_____” was added after the first sentence. In item 6, space was added in the natural parent’s information section for the date of birth and place of birth. Also in item 6, in the stepparent information, the word “adoption” was removed from the name caption and the words “at time of adoption” were added at the end. In addition, space was added for the maiden name (if applicable and if known), the date of birth and the place of birth for the stepparent.

8. New Form Request: Request for Court-Appointed Counsel for Involuntary Termination Proceedings under MCL 710.51(6)

The committee discussed a suggestion to create a new form to request court-appointed counsel for use by a nonconsenting, noncustodial parent in involuntary termination proceedings under MCL 710.51(6).

SCAO staff noted that, if such a form were created, it would be prepared for review at a future forms workgroup meeting, and not for the June 2019 release.

In general, committee members were split on whether the creation of such a form would be helpful. Some argued the form was needed as the courts are regularly appointing attorneys and a form would be a way to obtain necessary information about the individuals. Others were concerned about whether a form would inadvertently create a requirement for courts to notify individuals they have a right to request counsel. One committee member did not support the creation of a form because some courts do not ever appoint attorneys in this situation and there are other situations where individuals request an attorney and there are no forms, such as emancipation of a minor.

Discussion was held as to whether a generic form for requesting attorneys should be created for use in multiple situations.

It was the committee’s recommendation that SCAO staff look into the issue and consult with Administrative and Legal counsel as to whether a form for requesting counsel should be developed, either for the specific situation addressed on the agenda, or the larger purpose of a general request form that could be used in multiple situations. The review should include the issue of whether parties should be given notice that they can request appointment of counsel.

The suggestion was tabled.