



Michigan Supreme Court

State Court Administrative Office

Trial Court Services Division

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MICHIGAN COURT FORMS COMMITTEE Delinquency and Designated Forms Workgroup Minutes of September 26, 2019

- Present: Ms. Kathleen Allen, 3rd Circuit Family Division – Juvenile (Phone)
Honorable Kristin Bakker, Gratiot County Probate Court
Mr. Peter Brown, 30th Circuit Court
Ms. Victoria Martinuzzi, 6th Circuit Court
Ms. Amanda Pollard, 56th Circuit Court, Family Division
Mr. David Rauch, Charlevoix County Probate Court
Honorable Tina Yost-Johnson, 37th Circuit Court, Calhoun County
Ms. Sheryl Doud, Trial Court Services (Staff)
Ms. Rebecca Schnelz, Trial Court Services (Staff)
Mr. Matthew Walker, Trial Court Services (Staff)
- Absent: Ms. Soleil Campbell, MDHHS, Ingham County
Mr. Michael Kiehne, Michigan Legal Help
Mr. Thomas Hubbert, Cass County Prosecutor’s Office
Ms. Melissa Brand-Orweller, Judicial Information Services (Staff)
Mr. Tim Schalk, Judicial Information Services (Staff)
Ms. Kerrie Summerhill, MDHHS, Van Buren County
Mr. Noah Bradow, Trial Court Services (Staff)

1. Minor Changes

- a. JC 16, Request and Order for Fingerprinting/Photographing/Lineup
JC 66, Application to Set Aside Adjudication(s)

References to the term “fingerprints” were replaced with “biometric data” to comply with statutory and court rule amendments. A citation to MCL 28.241a(b) was added to the forms.

b. JC 39, Order for Assignment of Wages

The following note was added to this form to match the adult wage assignment, MC 289:

Note: Wage assignment is a transfer of the right to receive wages, ordinarily effected by means of a contract. As such, wage assignments are not within the scope of the federal wage garnishment law. For purposes of this order, however, wages have been defined based on the federal wage garnishment law. Wages are defined as earnings or compensation paid for personal services whether called wages, salary, commission, bonus, or otherwise, and can include periodic payments under a pension or retirement program. See 15 USC 1672. When required, withholdings shall be determined using the calculation sheet from SCAO-Approved form MC 14 (Garnishee Disclosure).

c. JC 86, Order After First-Phase Hearing to Waive Jurisdiction (Delinquency Proceedings)

A checkbox was added before item 7 to make the item optional because it does not apply if the juvenile waives the first-phase probable-cause hearing.

The sentence, “The motion to waive jurisdiction is granted.” was removed from item 11 because a second-phase hearing must be held before the motion to waive can be granted.

2. JC 08, Bond for Appearance

The committee considered deleting this form because its purpose is not clear. SCAO staff explained that this form allows for specification of release conditions and bail under MCR 3.935(E) and (F). However, release conditions and bail must be ordered (see JC 10). This form is not an order and is not signed by a judge.

SCAO staff explained that the adult forms, MC 240 and MC 241, were previously like this. However, SCAO analysts discovered that many courts in the adult system did not complete an order for pretrial release. Instead, courts would use MC 241, which was not an order. For this reason, MC 240 and MC 241 were combined into a single form.

Members discussed the usage of JC 08. Some committee members use JC 08, but others do not. Members agreed that JC 08 is not necessary as a standalone form, given the context of MC 240 and MC 241. However, members agreed that an acknowledgment of conditions, similar to MC 240, is helpful to ensure juveniles acknowledge their responsibilities.

The committee deleted JC 08 and added an acknowledgment page to JC 10.
The form was approved as revised.

**3. JC 14a, Order of Disposition, In-Home
JC 14b, Order of Disposition, Out-of-Home
JC 38, Order for Reimbursement**

The committee considered modifying these forms to include a payment grid (similar to item 12 of MC 219) and the language, “Fine, costs, and fees not paid within 56 days of the due date are subject to a 20% late penalty on the amount owed.” in accordance with MCL 600.4803.

In 2008, the SCAO issued a memo about this topic. Specifically, the memo indicates that MCL 600.4803 applies to juvenile delinquency proceedings. However, the language from the statute was never added to juvenile delinquency forms.

Members reviewed the 2008 memo, agreed with adding the proposed language, but expressed concerns about mandated enforcement on families. Some families simply do not have the means to pay. The committee distinguished that the language is necessary for statutory and auditing purposes, but enforcement takes place on a case by case basis.

Members discussed the proposed fines and costs grid. The committee commented that the proposed grid works well for a single payer, but delinquency cases may have multiple payers including the juvenile and parents. For this reason, the proposed grid would not work.

Instead, SCAO staff presented an alternative draft. The proposed alternative creates a new item 14 for financial obligations. Item 14a (formerly item 16) accounts for those things that the juvenile must pay, including the crime victim’s rights fund, minimum state costs, DNA assessment, and statutory/ordinance fines. Item 14b accounts for restitution, allowing the court writing space to specify the payor and restitution. Item 14c accounts for reimbursement, allowing the court writing space to specify the payor and reimbursement terms. Item 14d accounts for other fines or fees. Item 14e provides the language from MCL 600.4803 along with a due date.

The committee adopted the alternative draft for both JC 14a and JC 14b. However, JC 38 was not modified because MCL 600.4803 does not apply to reimbursement.

The forms were approved as revised.

4. JC 14a, Order of Disposition, In-Home

- a. The committee considered a suggestion to include additional writing space in item 5 of the form, which is the grid listing the counts the juvenile is charged with. Currently, the form contains writing space for six counts. Members agreed that additional writing space should be provided because juveniles could easily have more counts. However, members stated that any additional writing space should not add pages to the form. The committee stated that SCAO staff should add as many rows as possible without extending the page count of the form.
- b. The committee considered a suggestion to include an item stating the name of a parent, guardian, or legal custodian to whom the juvenile is released. Members discussed this suggestion and agreed that an item to designate who the juvenile is released to would be helpful.

Committee members stated that courts often designate a supervisory parent when a juvenile remains in-home on probation. For example, one parent may be less strict than the other and the juvenile may know that he or she can get away with more. Designating a supervisory parent helps keep the juvenile on track and increases reporting to the court when necessary.

The committee added a new item 13 stating, “The juvenile is released to _____(parent/guardian/legal custodian)_____.” The committee indicated that this item should be completed each time and does not need a checkbox.

The form was approved as revised.

STAFF NOTE: The revisions set forth in item b above were held for further discussion.

5. JC 59, Order of Adjudication

- a. The committee considered a suggestion to include additional writing space in item 5 of the form, which is the grid listing the counts the juvenile is charged with. Currently, the form contains writing space for six counts. Members agreed that additional writing space should be provided because juveniles could easily have more counts. However, members stated that any additional writing space should not add pages to the form. The committee stated that SCAO staff should add as many rows as possible without extending the page count of the form.
- b. The committee discussed a suggestion to remove item 12, which is a writing space for “other” findings. SCAO staff commented that this was the only known form with a

writing space for other findings. Members stated that the writing space is not used very often because the majority of findings are already present. For that reason, the item is unnecessary. The committee removed the item and subsequent items were renumbered.

- c. The committee considered a suggestion to increase the writing space for item 16, which is “other.” Members agreed that the writing space should be increased, given the removal of item 12. The committee instructed SCAO staff to increase the writing space as much as possible without increasing the page count.

The form was approved as revised.

6. JC 105, Order on Application to Set Aside Adjudication(s) MC 228, Order on Application to Set Aside Conviction

The committee considered a suggestion to modify item 9 of MC 228 and item 10 of JC 105 to more accurately reflect the statutory language.

Item 9 of MC 228 states “Under MCL 780.623 the court clerk, the arresting agency, and the Michigan State Police shall maintain a nonpublic record of the order setting aside conviction and of the arrest, fingerprints, conviction, and sentence in this case.”

Item 10 of JC 105 states “Under MCL 712A.18e(13) the court clerk, the arresting agency, and the Michigan State Police shall maintain a nonpublic record of the order setting aside adjudication(s) and of the arrest, biometric data, adjudication(s), and disposition in this case.”

The suggestor indicates that the statutory language requires the department of state police to retain a nonpublic record, but do not mention the court clerk or arresting agency.

Members agreed with the suggestor—the form language misrepresents the statutory language. However, committee members also thought that ordering the court clerk and arresting agency to maintain a nonpublic record is important and should be included on the form. If a background check reveals a file at the court or arresting agency, the purpose for setting aside a conviction is undermined.

The committee rephrased these items on the forms to state, “Under [MCL 780.623 or MCL 712A.18e(13)], the Michigan State Police shall maintain a nonpublic record of the order setting aside [conviction or adjudication] and of the arrest, fingerprints, [conviction or adjudication], and [sentence or disposition] in this case. If the court and arresting agency maintain a record of the arrest, fingerprints, [conviction or adjudication], and [sentence or disposition], that record shall be nonpublic and not used for any purpose unless authorized by law.

The forms were approved as revised.

**7. JC 88, Order Appointing Next Friend (Personal Protection Proceedings)
New Form: MC XXX, Request for Next Friend and Order**

In 2018, the committee considered modifying form JC 88 to accommodate a respondent in need of a next friend because the current language on JC 88 only accommodates petitioners. The committee suggested modifying JC 88 into a generic MC form for use under MCR 2.201(E) (civil cases) and MCR 3.703(F) (personal protection order cases) for the 2019 forms cycle.

SCAO staff created a draft form as requested. The proposed draft allows an individual to request appointment of a next friend, regardless of whether or not they are the petitioner or respondent. The draft also contains an order.

Members reviewed and agreed with the proposed draft. The committee deleted JC 88 and adopted the proposed new form.

8. New Form: Publication of Notice for Name Change

In 2018, this workgroup considered and agreed to create a new form for publication of notice in name change cases. The committee agreed that a specific form for name change cases would be appropriate and requested SCAO staff to create a draft for the 2019 forms cycle.

SCAO staff created a draft form as requested. The proposed draft accounts for publication of the name change proceeding as required by MCL 711.1(1) and publication for a noncustodial parent as allowed by MCR 3.613(C).

Members reviewed and agreed with the proposed draft. Members stated that the form's use for noncustodial parents should be clearer. The committee added a parenthetical statement next to "TO ALL PERSONS" stating "(include non-custodial parent's name here)."

Members also commented that the form should make clear that the petitioner must file the affidavit of publication with the court clerk if the newspaper does not. Members stated that many times the newspaper does not provide the affidavit of publication to the court. The committee added the following statement to the publication section, "Petitioner shall file affidavit of publication with the court clerk."

The form was approved as revised.