



Michigan Supreme Court

State Court Administrative Office

Trial Court Services Division

Michigan Hall of Justice

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March 22, 2019

MICHIGAN COURT FORMS COMMITTEE

Domestic Relations Workgroup

Minutes of March 21, 2019

- Present: Ms. Carol Bealor, 43rd Circuit Court
Ms. Amy Billmire, Michigan Legal Help
Ms. Samantha Cumbow, MiCSES Project – MDHHS
Honorable Brian Kirkham, 37th Circuit Court
Mr. Michael LaFave, Ogemaw County Friend of the Court
Ms. Kelly Morse, MDHHS Office of Child Support
Ms. Erin Rothfuss-Magley, 20th Circuit Court
Ms. Susan Smith, 7th Circuit Court
Ms. Shelley Spivack, 7th Circuit Court
Ms. Gail Towne, Lennon, Miller, O'Connor & Bartosiewicz, PLC
Ms. Amy Yu, Amy Yu, PC
Mr. Bill Bartels, Friend of the Court Bureau (Staff)
Ms. Stephanie Beyersdorf, Trial Court Services, (Staff)
Ms. Sheryl Doud, Trial Court Services (Staff)
Ms. Rebecca Schnelz, Trial Court Services (Staff)
Mr. Matthew Walker, Trial Court Services (Staff)
Ms. Stacy Westra, Trial Court Services (Staff)
- Absent: Ms. Gail Seaton, MiCSES Project – MDHHS
Mr. Kent Weichmann, 3rd Circuit Court

1. Minor Changes

FOC 50, Motion Regarding Support

The writing space for the frequency of support payments (week, month, etc.) was replaced with the word month. Previously support could be paid in at different frequencies, but support is only paid monthly now.

2. 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. Members thought the draft language implied that sign language is a type of foreign language¹. Instead of the draft, the committee added the following to both forms in the area above the applicant information grid: “Note: For foreign language interpreters, use form MC 81. For sign language, use this form.”

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.

Members also discussed rephrasing item 4. Members mentioned that some courts have experienced individuals listing an accommodation, but not providing enough specificity. Then, when the hearing happens, the individual is upset that the accommodation is incorrect. The committee rephrased item 4 to state, “What specific accommodations do you need?” instead of “What type of accommodations do you need?”

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.

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

¹ The proposed draft language was “For foreign language interpreters (except sign language) use form MC 81.”

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 discussed the instruction at the top of the form. The form states, “...complete this Request using the English alphabet.” Members stated that English alphabet may be an inaccurate term for the alphabet associated with the English language. The committee recommended that the word “alphabet” be replaced with “language.”

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. After discussion, the committee agreed that clarifying the length of appointment may be helpful. However, members noted that it is difficult to track whether or not a party needs an interpreter and an extended length of appointment may exacerbate that issue. Members also disagreed with the proposed draft option of “[] until the case is closed.” Members stated that domestic relations often have post-judgment matters and this checkbox option does not accommodate post-judgment issues. The committee recommended a writing space for “Other” instead.

The committee approved the draft language.

The forms were approved as revised.

4. MC 01, Summons

The committee considered modifying the proof of service to make clear that parties may not serve process of the complaint. See MCR 2.103(A). The suggestor stated that many *pro per* parties do not understand that they cannot serve the complaint.

Members agreed with the suggestion. The committee added the draft language, “I am not a party or officer of a corporate party (MCR 2.103[A])” to the affidavit of process server section of the proof of service. The committee also added a citation to MCR 2.103 to the first page of the form.

The form was approved as revised.

5. MC 21, Case Inventory Addendum

The committee considered adding the plaintiff and defendant's dates of birth to this form. The suggestor stated that the additional information would assist clerks when searching for cases under that same person.

Members disagreed with the suggestion because dates of birth are personal identifying information and this form is a public document. Members did not think the benefits were significant enough to allow the date of birth in a publicly accessible file. Further, it was noted that the Michigan Supreme Court has published [a proposed court rule](#) to make an individual's date of birth (among other things) protected personal identifying information.

The form was not revised.

6. MC 281b, Domestic Relations Mediator Application

The committee considered revising this form to allow the applicant to indicate whether he/she offers evaluative mediation in accordance with MCR 3.216(F)(1)(b).

Members reviewed MCR 3.216(F)(1)(b) and agreed it is not on the form, even though it is required by the court rule. The committee added a new part D to the form with a question, "Are you willing to provide evaluative mediation in accordance with MCR 3.216(I)? Yes No"

The form was approved as revised.

7. FOC 6, Support Enforcement Order

The committee considered removing item 28 regarding immobilizing a vehicle. Item 28 states, "A law enforcement agency shall place an immobilizing device on any vehicle owned by the payer." The suggestor stated that vehicle immobilization is only allowed when a bench warrant is issued. See MCL 552.631(5) and MCL 552.644(9). Item 11 of this form is designed for this.

Members disagreed with the suggestor and pointed out that this form is used for multiple situations: failures to appear, contempt, etc. Because the form is used for multiple outcomes, different (but similar) checkbox options are available, depending on the outcome of the hearing. For this reason, the committee did not think revisions were necessary.

The form was not revised.

8. FOC 10, Uniform Child Support Order

In 2018, the SCAO’s Friend of the Court Bureau published an administrative memorandum about actions that courts and local Friend of the Court offices should take if a payer becomes incapacitated and unable to satisfy their support obligation². This memo stated that an abatement provision can be included in the uniform child support order to reduce wait time to complete a review. Based on this memo, it was suggested that FOC 10 be modified to include an optional support abatement provision in accordance with this memo.

The proposed abatement language in the memo is “if the friend of the court becomes aware of a payer’s condition that meets the incapacitating events in SCAO’s 2019 Memorandum on Adjusting Current Support Due to Incapacitation, or as stated in a subsequent memo or the child support formula, support shall be temporarily reduced to zero effective as of the date the friend of the court provides notice of the abatement to the parties and to the court. Either party may object by filing a written objection with the court within 21 days of the notice date. If a timely objection is received, the friend of the court shall either set the objection for hearing or conduct a support review with an effective date no earlier than the date of the notice.”

Members explained that the SCAO memo is trying to address an issue with retroactive modification and incapacitated payers. Under MCL 552.603(2), child support cannot be retroactively modified, except if a petition for modification is pending, support may be modified back to the day the petition was filed. So, if an individual becomes incapacitated for some reason and cannot pay, child support continues to accrue and cannot be modified.

The committee was split on whether or not the language should be added to the form. Some members commented that a number of counties currently place this language in their orders—adding a checkbox option for this would make adding this language more efficient. Other members were concerned that there is not a statutory basis for abating support due to incapacitation—the only legal authority is the SCAO memo. To gather more input, the committee agreed to table this issue.

9. FOC 16, 21-Day Notice to Alleged Violator of Custody or Parenting Time Provisions

The committee considered revising item 3 of this form to state, “A copy of the complaint filed with this office is attached.” Under MCL 552.511b(2), the Friend of the Court office is required to send a copy of the complaint to the accused individual. Currently, item 3 of this form provides a writing space for a restatement of the complaint, but does not state that a copy of the complaint was sent to the accused individual.

² An updated version of this memo was released in March, 2019. The updates did not impact this discussion.

Members agreed that the form should more clearly indicate that a complete copy of the complaint was provided to the individual. However, the committee did not agree that the writing space for summarization/restatement of the complaint should be removed. Members noted that individuals often submit long complaints that may or may not contain possible violations. The summarization writing space allows the Friend of the Court to provide a clearer picture of the specific violations.

The committee rewrote item 3 to state, “The attached written complaint was filed with this office alleging the following:”

The form was approved as revised.

10. FOC 23, Verified Statement

The committee considered modifying this form to include mobile telephone numbers. Currently, the form contains writing space for home and work, but not mobile telephone numbers.

Members agreed that a mobile telephone number would be helpful because individuals are highly likely to have a mobile phone. Members thought that the telephone number writing spaces could be reordered to place mobile first.

The committee added new items 15 and 35 for mobile phone number. Items 16 and 37 were revised to home telephone number. Items 17 and 37 were revised to work telephone number. Subsequent items were renumbered.

The form was approved as revised.

11. Draft Forms for MCR 3.222 and MCR 3.223 (Collaborative Law)

The committee considered creating forms for new court rules MCR 3.222 (collaborative law) and MCR 3.223 (consent judgment/order). Under these new rules, the SCAO is required to create several forms.

The committee agreed with the drafts, but adopted the modifications as suggested by the public comments.

The forms were approved as revised.

STAFF NOTE: These forms were released on March 28, 2019, before the April 1 effective date for the rules.

12. Discussion of MCR 3.215(G) and FOC 10, Uniform Child Support Order

The committee briefly discussed MCR 3.215(G) and how interim orders are used in courts across the state.

13. New form request: Order of Filiation

The committee considered creating a SCAO-approved order of filiation. Previously, form CC 352, Order of Filiation existed, but it was deleted in 2002 by the forms committee. At that time, CC 352 was designed for use by prosecutors because paternity cases were mostly filed by prosecutors. The form was deleted because PAAM was standardizing its own form for prosecutor use.

Members agreed that a SCAO-approved order of filiation would be helpful for courts because there is no order available to courts otherwise. The committee requested that SCAO staff create a draft for presentation at the 2020 Domestic Relations Forms Workgroup meeting.