



Michigan Supreme Court

State Court Administrative Office
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Chad C. Schmucker
State Court Administrator

MEMORANDUM

DATE: September 23, 2011

TO: Family Division Judges
Chief Circuit Court Judges

cc: Circuit Court Administrators
Family Division Administrators
Probate Registers

FROM: Chad C. Schmucker

RE: SCAO Administrative Memorandum 2011-04
Orders Affecting Children in Child Welfare Cases

The State Court Administrative Office (SCAO) has been advised that effective **October 1, 2011**, the Department of Human Services (DHS) will advise their workers not to execute a court-ordered change in placement, including reunification home, until they receive a **written** court order.

Similarly, SB 320, which is expected to pass the Legislature soon, will require a judge or referee to provide a written order authorizing the removal or placement of a child who is taken into protective custody. The bill also increases the standards for law enforcement to take a child into protective custody. The SCAO will provide a full analysis of the bill once enacted; however, we would urge courts to begin to discuss how to implement these upcoming provisions.

For those courts that do not already have a standard procedure for issuing a written order for emergency removals, or that do not issue immediate orders following hearings, this memorandum provides recommended procedures.

A. Reunification Orders

Some courts verbally order reunification, but do not provide the DHS with a written order for days or weeks after the hearing. Beginning October 1, 2011, the DHS will not change the child's placement until they have a copy of the order. As a result, despite the court's intent that the family be reunified, until DHS receives the written court order, the child will remain in foster care. Foster care costs will continue to incur.

We suggest courts adopt procedures that allow immediate generation of placement orders. This is a best practice that many courts currently engage in. In the courts that immediately provide the orders, a clerk or reporter present in the courtroom prepare the order immediately following the hearing and the parties remain on the premises until they are provided copies of the order. This practice saves the court time and postage. Once this is established as a regular process, the courts have found it is an easy and efficient process. If you need assistance with designing your workflows to enable the immediate production of orders, please contact your regional administrator for assistance.

B. SB 320 Emergency Removal Order Procedures

There are a variety of procedures courts can adopt to comply with this upcoming requirement. We encourage courts to meet the representatives from the local DHS office and local law enforcement to develop an after-hours emergency removal plan for child dependency orders. The group should determine the most efficient and effective way to communicate the case-specific information to the judge, prepare and sign the order, and then return the order to the DHS worker. The following are some suggestions:

- The on-call judge can keep copies of the Order Taking Child(ren) Into Protective Custody (JC05b) on his/her person at all times. When the judge receives a phone call and takes testimony regarding the need for emergency removal, the court can then fill out the order and return it to DHS. It can be returned by faxing the order, scanning it and e-mailing it back, or having DHS or law enforcement pick the order up directly from the judge.
- Wayne County is using a system with iPads and electronic signatures, which is acceptable to the DHS. The iPad is provided to the on-call judge, and the electronic signature is password protected.
- Consult with the district court to determine if you can replicate its system for effectuating after-hours bench warrants.

Once your court has adopted an after-hours emergency removal plan for child dependency orders, please provide a copy of the plan to your local DHS.