

**FROM THE COMMITTEE ON  
MODEL CIVIL JURY INSTRUCTIONS**

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The Committee has adopted the following amended model civil jury instruction effective October 31, 2019.

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**ADOPTED**

**M Civ JI 97.35 Statutory Grounds**

(1) The issue that you, the jury, will have to decide is whether one or more of the statutory grounds alleged in the petition have been proven.\* If you find that one or more of the statutory grounds alleged in the petition have been proven, then the Court will have jurisdiction over [ *children's names* ]. I will now explain what those statutory grounds are. The Court has jurisdiction over a child\*\*:

(a) If that child's parent or other person legally responsible for the care and maintenance of that child, when able to do so, neglects or refuses to provide proper or necessary support, education, medical, surgical, or other care necessary for his or her health or morals, or

(b) If that child is subject to a substantial risk of harm to his or her mental well-being, or

(c) If that child is abandoned by his or her parents, guardian or other custodian, or

(d) If that child is without proper custody or guardianship, or

(e) If that child's home or environment, by reason of neglect, cruelty, drunkenness, criminality, or depravity on the part of a parent, guardian, nonparent adult or other custodian, is an unfit place for that child to live in, or

(f) If the juvenile is dependent and in danger of substantial physical or psychological harm when,

(i) the juvenile is homeless or not domiciled with a parent or other legally responsible person, or

(ii) the juvenile has repeatedly run away from home and is beyond the control of a parent or other legally responsible person, or

(iii) the juvenile is alleged to have performed or engaged in a commercial sexual activity, or a delinquent act that is the result of force, fraud, coercion or manipulation exercised by a parent or other adult, or

(iv) the juvenile's custodial parent or legally responsible person has died or has become permanently incapacitated and no appropriate parent or legally responsible person is willing and able to provide care for the juvenile, or

(g) If that child's parent has substantially failed, without good cause, to comply with a limited guardianship placement plan regarding the child, or

(h) If that child's parent has substantially failed, without good cause, to comply with a court-structured plan regarding the child, or

(i) If that child has a guardian appointed for him or her under the Michigan Estates and Protected Individuals Code, and

(i) that child's parent, having the ability to support or assist in supporting the child, has failed or neglected, without good cause, to provide regular and substantial support for the child for a period of two years or more before the filing of the petition, or if a support order has been entered, has failed to substantially comply with the order for a period of two years or more before the filing of the petition, and

(ii) that child's parent, having the ability to visit, contact or communicate with the child, has regularly and substantially failed or neglected, without good cause, to do so for a period of two years or more before the filing of the petition.

#### *Note on Use*

\* If only one statutory ground is alleged in the petition, substitute "the statutory ground" for "one or more of the statutory grounds" throughout these instructions.

\*\* The court should select the subsections that apply.

#### *Comment*

MCL 712A.2(b)(1)-(6)

#### *History*

M Civ JI 97.35 was added March 2005. Amended October 2019.

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The Michigan Supreme Court has delegated to the Committee on Model Civil Jury Instructions the authority to propose and adopt Model Civil Jury Instructions. MCR 2.512(D). In drafting Model Civil Jury Instructions, it is not the committee's function to create new law or anticipate rulings of the Michigan Supreme Court or

Court of Appeals on substantive law. The committee's responsibility is to produce instructions that are supported by existing law.

The members of the Committee on Model Civil Jury Instructions are:

**Chair:** Hon. Mark T. Boonstra

**Reporter:** Timothy J. Raubinger

**Members:** Benjamin J. Aloia; Robert L. Avers; Hilary A. Ballentine; Hon. Jane M. Beckering; Mark R. Bendure; Hon. Kathleen A. Feeney; William B. Forrest, III; Hon. Michael F. Gadola; Donald J. Gasiorek; James F. Hewson; Hon. Michael L. Jaconette; Amy M. Johnston; C. Thomas Ludden; Daniel J. Schulte; Judith A. Susskind; Hon. Donald A. Teeple; Thomas Van Dusen; Thomas W. Waun.