Michigan Supreme Court

State Court Administrative Office
Trial Court Services Division

Michigan Hall of Justice
P.O. Box 30048
Lansing, MI 48909

April 2, 2014

MICHIGAN COURT FORMS COMMITTEE
Adoption Committee
Minutes of February 27, 2014 Meeting

Present: Herbert Brail, Law Office of Herbert A. Brail
Catherine Hoover, DHS
Lauran Howard, 6th Circuit Court, Family Division
Melissa Neckers, Miller Johnson
Cheri Valuet, 3rd Circuit Court, Family Division
Colin Boes, State Court Administrative Office (staff)
Robin Eagleson, State Court Administrative Office (staff)
Amy Garoushi, State Court Administrative Office (staff)

Absent: Amy Barnes, Ingham County DHS
Hon. Patricia Gardner, Kent County Probate Court
Mary Haskamp, Kalamazoo County Probate Court
Hon. Janelle Lawless, 30th Circuit Court
Angela Tripp, Michigan Poverty Law Program
Jonie Mitts, Judicial Information Systems (staff)

Meeting called to order, 9:50 a.m.

1. **<u>Format of Checkboxes for use on forms relating to an Indian Child</u>**

   The committee discussed a suggestion made by a Department of Human Services (DHS) adoption worker that the forms that have a checkbox for indicating if the child is an Indian child, such as PCA 322, Order Committing to Agency/DHS, be modified to also have a checkbox to indicate that the child is not an Indian child. Initially, there was some discussion relating to whether this was necessary or helpful. One committee member noted that the current format of the checkboxes sometimes leads to confusion in other

states where there are interstate adoptions. Specifically, interstate administrators have questioned what it means if the box is not checked. However, others on the committee noted that judges would not want to have a box to indicate the child is not an Indian child because contradictory information may later come to light.

The committee also discussed whether the box indicating whether the case involves an Indian child should be under the court findings. After some discussion, however, the committee determined that the adoption code does not require the court to make this finding and that it should not be moved on the form. SCAO staff indicated the checkbox was only there so that if it becomes known to the court that the child is an Indian child, the court can use the checkbox to indicate this fact. The committee determined it would be best to leave the checkbox as it currently appears and if the box is not checked it would mean the child is either not an Indian child or it is unknown.

The committee determined no changes were required at this time.

2. **Should the Line for the Case Name on Some Forms be Modified?**

The committee discussed a suggestion from a DHS adoption worker that the line for the case name on the forms, such as PCA 327, be modified to remove the “, adoptee” from after the “In the matter of” line. Instead, it has been suggested that the word adoptee should appear below the line for filling in the adoptee’s name. SCAO staff noted that this format is a standard format used as part of the case name on adoption forms and if the form was changed, other forms would need to be changed in order to remain consistent. After discussing whether there was a need to change the style, the committee determined there was not a need at this time and no change should be made to the format or form in this regard.

The committee also briefly discussed whether PCA 327 should include the parenthetical “(full name of child)” under the blank line at the top of the form. The committee noted that this was probably not included because this form is used by adult adoptees and could lead to confusion regarding the name that should be listed on the line. After further discussion regarding possible parenthetical formats that could be used, the committee determined no change should be made because it would likely lead to more confusion and it is not required to be on the form.

The committee determined no changes were required at this time.

3. **Should There Be a Line on the Forms to Print or Type the Judge’s Name Under the Signature?**

The committee discussed a suggestion from a county adoption specialist that the adoption forms where a judge signs the order should be modified to provide a line to type or print the judge’s name under the signature line See, for example, PCA 304, PCA 308a, PCA 318, PCA, 321, PCA 321b, PCA 322, PCA 326, PCA 341, and PCA 351. SCAO staff noted that there is generally somewhere else on the form where the judge’s name is typed

or printed, such as under the case number when the judge is assigned to the case, and it would be redundant to have a line to print the judge's name. Some committee members also noted that various counties address this differently and have ways to make sure the judge's name is on the form. The committee determined it was not necessary to include a line to print the judge's name.

The committee determined no changes were required at this time.

4. **Should a Clarifying Parenthetical be Added After the Word "Place" on Certain Forms?**

The committee considered a suggestion from a county adoption specialist that item 1 on PCA 305, Release of Child by Parent, be modified to put after the word "place" the following: (City, County, State). Examples of other forms where the same change was suggested included PCA 308 and PCA 308a. SCAO staff noted that the statute did not require the specifics down to city, county, and state. The committee discussed whether this parenthetical would be helpful and considered if there were circumstances, like those where the child is born outside the country, where the parenthetical would not be helpful.

The committee ultimately determined this parenthetical would not be helpful and no change should be made.

5. **Should Forms Asking for an Attorney's Information also Ask for the Attorney's Email Address?**

The committee considered a request from an attorney that a line should be added to forms that request an attorney's information to allow for the attorney to provide an email address. For example, see PCA 301 and 301a. SCAO staff noted that this information is on the form to satisfy the captioning requirements of MCR 2.113(C) and that this rule requires the telephone number, not email address, of the attorney. However, the committee members all agreed it would be helpful for this information to be on the form and it is much easier to email an attorney regarding an issue than to call. Although the email is intended as an alternative to a telephone number, unlike a telephone number, an email is a place where someone could send court papers. Therefore, SCAO staff expressed concern that if an email is included in caption, it could suggest email is an appropriate form for serving papers, which is not true. The committee noted that adding an option to include email would make it easier for clerks to contact an attorney regarding an issue with a pleading. Committee members also noted that they did not believe any practicing attorney would have an issue disclosing an email address on a form.

Ultimately, the committee recommended that any adoption form that requests an attorney's information should be modified to include a place to list the email address. SCAO staff expressed some concern that on some forms there may not be space to add an additional line for an email address. The committee also determined a parenthetical should be considered to indicate that the email address of the attorney is not required,

unlike the remainder of the information.

Staff note: After internal review of this suggestion with Supreme Court Administrative Counsel, it has been determined a change to the form to include an email address cannot be made to the forms in this fashion unless the captioning rule was modified to include as an option or requirement the email address of a party or their attorney. SCAO staff will look into whether this is something that the Supreme Court would be willing to consider, but at this time no change in this regard will be made to the forms.

6. **Should a Line to Print or Type a Signer's Name be Added to Certain Forms?**

The committee considered a suggestion from an attorney that certain forms where an individual signs, but does not have a place to print or type their name, should be modified to include a line for the individual to print or type their name. These forms include: (1) PCA 305a (under item 7); (2) PCA 307 (under item 7); PCA 308 (under item 7); and PCA 308a (under item 7). One committee member noted that when a parent is in court, the court requires that the individual sign with his or her full legal name, which is often difficult for the individual not used to signing in this fashion. It was noted that it would be easier for an individual to see the printed name that needs to be signed right above where the individual signs.

SCAO staff asked the committee whether the blank for listing the name, like in item 1 on PCA 305a, should be removed and instead move the blank line for printing the name right above the signature line. However, there was some discussion of whether removing the name from the top would cause additional confusion. The committee determined this should not be done.

The committee initially discussed only adding a line to PCA 305, PCA 305a, PCA 307, PCA 308, and PCA 308a. The forms noted were suggested because they are generally signed in court and as a matter of practice result in the most confusion. However, after further discussion it was suggested that any form where an individual is asked to sign, a line to print or type the name will be added. The forms with such a signature line were approved as revised.

7. **Should some Forms Include Language Explaining the Effect of a Termination Order over an Order Stemming from a Divorce or Separate Maintenance Action?**

The committee discussed a suggestion from the Friend of the Court Bureau (FOCB) that language be added to PCA 305 (following item 5), PCA 305a (following item 5), PCA 318 (following item 5), and PCA 322 (following paragraph 3) that tracks MCL 710.29(9). The committee discussed the language found in MCL 710.29(9) that indicates, "[e]ntry of an order terminating the rights of both parents under subsection (7) terminates the jurisdiction of the circuit court over the child in any divorce or separate maintenance action." The FOCB suggested that the reason for adding this language would be to prevent two courts from issuing orders that facially conflict. The proposed statement would provide explicit guidance to the parents as to which order controls. Further, it was

suggested that inclusion of this language would help FOC staff by having an order that clearly ends the obligation of the parent whose rights were terminated. Some on the committee indicated that they did not see how such language would hurt anything, because it would simply be providing additional information. However, others on the committee noted that it does not seem necessary to add such language, as the statute is applicable regardless of whether a note regarding the applicability of the statute is added to the form. Other committee members suggested that a court might not be comfortable putting something in an order that makes it look as if it is nullifying another court's order, which would not be appropriate. The committee discussed the method by which courts currently inform other courts when there is an order that might have an impact on another court's order. The committee also considered whether it was appropriate to add this information to forms that are used for other things and the statute will not always apply and determined it was not appropriate. However, after further discussion, the committee believed that a notice of this sort should be added to PCA 323.

Staff note: After internal review of the exact language to be added to PCA 323, SCAO staff came up with the following to be added to the form: "Entry of an order terminating the rights of the parent(s) terminates the custody and parenting time provisions in any divorce, separate maintenance, or similar custody action. This does not eliminate any financial obligations that have accrued under any prior support order. An order terminating parental rights does not stop ongoing child support charges."

8. **CCFD 01, Petition for Placement Order of Surrendered Newborn Child**

The committee discussed a suggestion from a county adoption specialist that item 5.c. on this form should have a checkbox in front of it so that it is consistent with 5.a. and 5.b. on the form. These items relate to information required by MCL 712.3. SCAO staff noted that due to the lack of a checkbox under item 5.c., the form implies item 5.c. always applies, which does not appear to be true. The committee agreed and determined that a checkbox should be included in front of item 5.c.

The committee next considered a suggestion from a county adoption specialist that the form should be modified to include the actual date the newborn was surrendered. It was suggested that this would help establish that the child qualifies as a "newborn" under the Act by making it clear that the child was surrendered within 72 hours of birth. SCAO staff asked whether the determination was made before the form would be used and if the inclusion of this information would be useful on the form. The committee went on to discuss if the blank line in item 1 asking for a date was the date the child was surrendered. After this discussion, the committee determined that item 1 should be modified to clarify it is the date of surrender. The committee agreed to modify this portion of item 1 to read, "a child placing agency that assumed temporary protective custody of the newborn child. The child was surrendered on _____ (date)."

The committee next considered a suggestion from a county adoption worker that this form be reorganized to better reflect the chronological progression of the process. It was suggested the form be rearranged as follows:

1. Item 1: Current item 3
2. Item 2 Current item 2
3. Item 3: Proposed new statement regarding the date surrendered (if added)
4. Item 4: Current item 5
5. Item 6: Current item 1
6. Item 7: Current item 6
7. Item 8: Current item 7
8. Item 9: Current item 8

SCAO staff first noted that the standard for these forms is to have item 1 indicate who is petitioning. The committee discussed this issue and whether the suggested change in flow was significant enough to warrant changing the existing form. After some discussion about differing preferences in format, the majority of the committee decided that the form should be left the way it is and that it should not be rearranged at this time because there was not enough expressed support for the change and not a significantly compelling reason to change a form courts and attorneys are already familiar with.

However, during the above conversation, it was suggested by the committee that an agency contact information block be added to this form. The committee agreed this should be included on the form and that it would also include a line for an email address.

The form was approved as revised.

9. **PCA 301, Petition for Adoption**

The committee considered a draft of this form that was modified internally by SCAO and presented for consideration in an effort to comply with the Indian Child Welfare Act (ICWA) and the Michigan Indian Family Preservation Act (MIFPA). Specifically, item 12 was modified to have three checkbox options instead of only one for use in indicating whether the case involves an Indian child. Additionally, a citation to MCL 712B.9(1) was added to the bottom of the form. The citation in item 12 to MCR 3.002(5) was already updated to MCR 3.002(12). The committee agreed with the additional citation, but some on the committee expressed concern regarding a petitioner being required to state that the child is not an Indian child or that it is not known in item 12. This concern was expressed specifically with respect to an attorney filing this petition on behalf of a client and being exposed to potential liability relating to a statement that the child is not an Indian child or that it is not known if the child is an Indian child.

SCAO staff indicated that the proposed court the proposed court rule might require a statement in a petition whether the child is an Indian child, if the child is not, or if it is unknown and if that was the case, the rule would have to be further amended if it is determined this is not good policy. SCAO staff also noted that many of the suggested changes relating to MIFPA or ICWA were considered by a separate work group that had worked specifically on suggested changes to the court rules based on MIFPA and the

intent was to identify a child as Indian as early in the process as possible. Committee members considered the language of MCL 712B.9(1) and the proposed court rule to determine whether or not the proposed three checkbox format was appropriate on the petition. However, some committee members noted there was nothing in the statute or the proposed court rule that place an affirmative obligation to put this information in the petition. Instead, it merely indicates if the court knows or has reason to know, then the petitioner must provide additional notice consistent with MIFPA. Some committee members also noted that there has been a significant amount of litigation relating to malpractice and cases involving Indian children. The committee, after considerable discussion as to the appropriateness of including such checkboxes on the petition concluded that this item should only include a checkbox to indicate that the child is an Indian child, like that found in item 14 on PCA 301a.

The committee next considered four suggestions from a DHS adoption worker pertaining to this form. First, the committee discussed whether this form should have an instruction page to help users complete the form. A majority of the committee agreed that no instruction page should be created because it was not necessary and that an instruction page would not necessarily be helpful to the user.

The committee next considered whether additional identifying checkboxes should be added to the top of the form to allow a foster parent or recruited family to check a specific box, rather than use the “other” box. The committee agreed that this was not necessary because there was no requirement for such additional boxes and that it could lead to further confusion regarding the use of the form. The committee also noted that no additional specific boxes were needed because it would be evident what the relationship was from looking elsewhere on the form. No change was made.

The committee next considered a suggestion that item 6 on the form is confusing and that the adoptive parents always want to sign on the lines that are supposed to be used to indicate the pertinent information relating to the adoptee’s parents. The committee considered a suggestion from SCAO staff that a parenthetical be added, like that on other forms, that says “(type or print)” to help avoid signatures in the wrong place. The committee also noted there should be someone with the individual who can instruct that person where it is appropriate to sign the form. Committee members also noted that most of the workers using this form seem to understand how it works and what information should be filled in. Ultimately, it was determined that the “(type or print)” parenthetical would be added to item 2 (after “full name of child”), and in item 6, beneath both the father’s name and mother’s name line.

The committee next considered whether the form should include any information relating to married couples adopting separately. Some suggested that this was already addressed by item 11 on the form. Additionally, based on the modifications made to the form below, the form was clarified regarding what information is to be included and where. However, the committee did discuss that the line in item 11 is frequently inadequate for indicating the reason why the spouse is not joining in the petition. In order to clarify that an attachment is appropriate where the space is inadequate, a parenthetical was added to

the form, under the blank line, to indicate "(attach separate sheet if needed)."

The committee also considered two suggestions from an attorney regarding this form. First, the committee discussed the suggestion that the form be clarified so that it is clear what name the form is looking for on the blank at the top where it says, "I, _____ (name)." The committee discussed confusion and inconsistency in practice pertaining to whether the name completed should be the adopting spouse or that of the current parent joining the petition of their spouse. The committee discussed what the appropriate name for that line would be and how the form could be clarified so that use of the form is consistent and the intent is clear. The committee determined that the name listed as the person joining with their spouse should be the individual who is currently the parent. The individual who is seeking to adopt the child would fill in their name on the chart below. The committee then discussed exactly how the use note should be worded to make certain that all situations were covered by the explanation. A use note was added at the bottom of the form to indicate, "*Enter the name of the biological or legal or custodial parent."

The committee also discussed a suggestion that checkboxes be put in front of adopting mother/father to indicate which is adopting. The committee determined that checkboxes should be included on the form and that the format of the chart at the top for adopting mother/father should be adjusted to make more room. This involves putting the checkbox inside the chart, making more room for the boxes indicating the relationship to adoptee, and reducing the space for the address to be listed.

The form was approved as revised.

10. **PCA 301a, Petition for Direct Placement Adoption**

The committee considered a draft of this form that had been modified internally by SCAO and presented for consideration in an effort to comply with ICWA and MIFPA. Specifically, a citation to MCL 712B.9(1) was added to the bottom of the form. The committee agreed that the additional citation was appropriate.

The committee also considered a suggestion by a county adoption specialist that checkboxes should be added before a. and b. under item 18. The committee discussed the fact that these items are used to comply with MCL 710.46, but under the statute the court may, but is not required to order an additional investigation. Consequently, the committee determined that there should be a checkbox in front of both item 18.a. and 18.b., in order to make it clear these would not both be checked.

The committee also discussed a suggestion that boxes be put in front of adopting mother/father to indicate which is adopting. The committee determined that boxes should be included on the form and that the format of the chart at the top for adopting mother/father should be adjusted to make more room. This involves putting the checkbox inside the chart, making more room for the boxes indicating the relationship to adoptee, and reducing the space for the address to be listed.

The form was approved as revised.

11. **PCA 302, Supplemental Petition and Affidavit to Terminate Parental Rights of Noncustodial Parent**

The committee considered a suggestion from SCAO staff in light of ICWA and MIFPA, that a citation to MCL 712B.9(1) be added to the bottom of this form. After a brief discussion, the committee agreed the addition of this citation was appropriate.

The committee also considered a suggestion from an attorney that this form (as well as PCA 304) needs to be changed in light of *In re AJR*, 300 Mich App 597; 834 NW2d 904 (2013). It was suggested that the references on both forms to the "custodial parent" need to be modified to indicate that the parent in question is the parent with sole legal custody. The committee discussed the decision in *In re AJR* and the court's interpretation of MCL 710.51(6). The committee discussed the use of the phrase "custodial parent" in some detail and whether that phrase was accurate in light of the statutory language and the interpretation of the statute that resulted from *In re AJR*. Some on the committee noted that the form uses the term "custodial parent," but MCL 710.51(6) uses the phrase, "the parent having legal custody." Although an appeal is currently pending regarding *In re AJR* on this question, the committee determined the form should be changed to track the language in the statute more closely. The committee discussed the issues that have come up in practice after *In re AJR* was released and the confusion related thereto. The committee believed this was the best approach, as it should insulate the form against any decision by the Supreme Court interpreting the language, due to the fact the form will track the statutory language more closely. Ultimately, the committee determined the language at the top of the form should be changed from "am the custodial parent of the child named above" to "am the parent with legal custody of the child named above." However, the committee noted that if *In re AJR* is affirmed, the form should be revisited and likely should use the language "sole legal custody."

The committee also discussed a suggestion from the Friend of the Court Bureau that this form be modified, following item 8.b. on the form, to add a list of options like that found on PCA 315. It was suggested that this form should have options for: (1) contacted family; (2) contacted friends; (3) visited last known address; (4) letter to last-known address; (5) contacted office of child support (OCS) or friend of the court (FOC) to locate the individual; (6) other. The committee discussed whether the listing of these options was appropriate, in light of the fact that there is no statute or court rule that specifically requires any of the above. Instead, the individual is required to exercise reasonable efforts. The committee discussed whether the inclusion of the checkbox options improperly suggested the methods listed would automatically be deemed reasonable and whether it suggested all of those must be completed to be deemed reasonable. The committee debated which format was better in terms of balancing guiding the user with suggestions versus allowing the form to more closely follow the open language of the current law. The committee also considered modifying the form to allow for only blank lines, but adding a parenthetical suggesting some of the ways reasonable efforts might be made. The committee considered this option, but decided it would be best not to suggest

anything as to what might constitute reasonable efforts, given the many reasons that could exist for what might or might not be reasonable in a given case. Ultimately, the committee determined it was best to leave this item open ended and not modify PCA 302 in this way. The committee also determined PCA 315 should be modified so that it appears the open ended, in the same way that PCA 302 currently appears.

Staff note: The signature line for petitioner was also modified consistent with the change made above relating to *In re AJR* and MCL 710.51(6). Instead of saying "Signature of custodial parent petitioner" it was changed to "Signature of parent with legal custody petitioner" for purposes of consistency.

12. **PCA 303, Notice of Hearing, Termination of Parental Rights**

The committee considered a draft of this form that had been modified internally by SCAO and presented for consideration in an effort to comply with ICWA and MIFPA. Specifically, a citation to MCL 712B.9 was added to the bottom of the form. The committee agreed that the addition of this citation was appropriate and should be added to the form.

The form was approved as revised.

13. **PCA 304, Order Terminating Rights of Noncustodial Parent**

The committee considered a draft of this form that was modified internally by SCAO and presented for consideration in an effort to comply with ICWA and MIFPA. Specifically, the citation to MCR 3.002(5) was updated in item 11 to MCR 3.002(12) and a reference to the Michigan Indian Family Preservation Act was added to this item. Further, citations to 25 USC 1901 *et seq.* (for ICWA) and MCL 712B.1 *et seq.* (for MIFPA) were added to the bottom of the form. The committee agreed that these changes were appropriate and should be made to the form.

As noted above in agenda item 11, the committee also considered modifying the language on this form referencing the "custodial parent" in light of *In re AJR*. Ultimately, the committee determined the language in item 8 should be changed from "married the custodial parent on" to "married the parent with legal custody on." However, the committee noted that if *In re AJR* is affirmed, the form should be revisited and should likely use the language "sole legal custody."

The form was approved as revised.

14. **PCA 305, Release of Child by Parent**

The committee considered a proposal from SCAO staff that this form be split into two forms. The committee considered a split where one form would be used in certain circumstances where the child is an Indian child and both parents are releasing (PCA 305-I) and another form for use where the child is not an Indian child or both parents are

not releasing (PCA 305). Some members of the committee expressed the opinion that two forms were not necessary and might lead to more confusion. The committee went on to discuss what a single form would look like and some committee members believed it was better not to include the items required for an Indian child where both parents release on the form that everyone uses, as it would make the current form more confusing and include, in many cases, unnecessary information. SCAO staff also noted that the MIFPA rules workgroup believed the approach of having two separate forms made more sense in light of ICWA and MIFPA. After significant discussion, a majority of the committee members agreed that the form should be split into PCA 305, a slightly modified version of the current form, and a PCA 305-I, for use when both parents are releasing.

The committee agreed that the proposed use note on PCA 305 should be added, indicating that if the child is an Indian child and both parents are releasing under MCL 712B.13, PCA 305-I should be used.

The committee also discussed the addition of language in item 6, to indicate that, "I understand my release may be withdrawn for any reason at any time before the entry of a final order of adoption." The committee agreed that this additional language was appropriate. The committee also noted that the word "American" should be removed from before the words "Indian child" in order to appear consistent with other forms and the way the term is used in the court rule.

The committee also considered whether an item should be added under the certification portion on the second page indicating the release involved an Indian child and that the terms and consequences of the release were fully explained to the parent and understood by the parent. The committee agreed this was an appropriate addition to PCA 305.

The committee also considered a suggestion that the words "giving up" under the special acknowledgement should moved from before the word permanently to after the word permanently. The committee agreed that the draft language made more sense and that the form should be modified to state, "voluntarily and permanently giving up her/his parental rights . . ."

The committee also discussed whether the court needs to obtain the information required by MCL 710.27 before or at the same time as the release is executed and if any change needed to made to the form in this regard. The committee noted that the information that is to be provided under MCL 710.27 should be obtained before this order is signed. The committee determined a note should be added to the form indicating that "Before placement of a child for adoption, a parent or guardian, a child placing agency, the department, or the court that places the child shall compile and provide to the prospective adoptive parent a written document providing the information required by MCL 710.27." It was determined this language should be added to both PCA 305 and PCA 305-I.

The committee approved the form as split into PCA-305 and PCA 305-I.

Staff Note: After internal review of the language if MIFPA, specifically MCL 712B.27

and MCL 712B.13, it does not appear that one parent can release without the other parent where the case involves an Indian child. Therefore, the checkbox option allowing for a proceeding where only one parent has released does not appear to be appropriate. Consequently, item 6 on PCA 305 was removed. This also includes removing the proposed certification from PCA 305 regarding an Indian child.

15. **PCA 307, Consent to Adoption by Adoptee**

The committee considered a request from a county adoption specialist that the description of the information requested on the first blank line indicating "full name of child" should be modified to say "full name of adoptee." The committee discussed the fact that the form is used for adults and children, so the "full name of child" is misleading and could be confusing. The committee ultimately determined it would be best if it simply said "full name" under the line instead.

The committee also determined that a line for printing or typing the name of the adoptee should be added to the form, along with a line for the adoptee to date the form. While the committee acknowledged the date the adoptee should generally be the same date the judge signs the form, the committee concluded it would lead to less confusion if there was also a line for the adoptee to provide the date he or she signs the form.

The committee also briefly discussed the formatting of the name portion on this form. It was explained that the format of the name of the case, followed by ", adoptee" is the standard that is generally used. The committee determined no need to change this format was needed at this time.

The form was approved as revised.

16. **PCA 308, Consent to Adoption by Parent**

The committee considered a suggestion from SCAO proposing that this form be split into two forms. The committee reviewed two draft forms, a new modified version of PCA 308 and a new form, PCA 308-I, for use where the case involves an Indian child and both parents are consenting. On PCA 308, it has been proposed that the words "give up" in item 2 be moved from before the word "permanently" to after the word permanently. The same change was made to the language of the special acknowledgement on the second page. Additionally, a use note was added to the top of PCA 308 to indicate when PCA 308-I would be used, which is when the child is an Indian child and both parents are consenting to the adoption under MCL 712B.13. Item 6 was also be modified to update the citation from MCR 3.002(5) to MCR 3.002(12)

The committee also considered a suggestion by a county adoption specialist that the line for the signature of a parent/guardian of an unemancipated minor (who is the parent of the child the consent relates to) should also indicate that the guardian ad litem can sign. MCL 710.43(4). provides that, "[i]f the parent of the child to be adopted is an unemancipated minor, that parent's consent is not valid unless a parent, guardian, or

guardian ad litem of that minor parent has also executed the consent." Despite the fact that the box would be checked indicating the individual is the guardian ad litem, the committee believed it was important to distinguish between the guardian ad litem and guardian. The committee ultimately determined that the signature line should be modified to reference the ability of the guardian ad litem to sign the form. This change will be made to both PCA 308 and PCA 308-I.

The form was approved as revised.

Staff Note: After internal review of the language if MIFPA, specifically MCL 712B.27 and MCL 712B.13, it does not appear that one parent can consent to the adoption without the other parent where the matter involves an Indian child. Therefore, the checkbox option allowing for a proceeding where only one parent has released does not appear to be appropriate. Consequently, item 6 on PCA 308 was removed.

17. **PCA 308a, Consent to Adoption by Guardian**

The committee considered a suggestion from SCAO staff that item 7 on this form be modified to be consistent with the use on the other forms. It should only say Indian child, not American Indian child, and should reference the definition of Indian child now found at MCR 3.002(12). The committee agreed this change was appropriate.

The committee also considered a suggestion from SCAO staff that the citation to MCL 700.431(1)(c) should be removed from the form. SCAO staff indicated that this section was repealed by PA 386 of 1998, effective April 1, 2000. However, a provision comparable to the language in previous MCL 700.431(1)(c), which said in pertinent part, "[s]ubject to the conditions and restrictions of chapter X of Act No. 288 of the Public Acts of 1939, as amended, being sections 710.21 to 710.70 of the Michigan Compiled Laws, a guardian may consent to the adoption of a minor ward or release a minor ward for adoption," can now be found at MCL 700.5215(e), which states, "[s]ubject to the conditions and restrictions of chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, a guardian may consent to marriage or adoption of a minor ward or to the release of a minor ward for adoption." After a brief discussion, the committee determined this was an appropriate addition to the form.

The committee also considered a suggestion from a circuit court adoption coordinator that suggested item 2 should be modified to remove the reference to: "a copy of my current letters of guardianship are attached." It was suggested that this causes confusion because in some cases involving foreign adoptions, like those involving children from India, there are no letters of guardianship and, instead, there is only an order. After a brief discussion relating to whether a modification to the form could address this problem, the suggestion was withdrawn. Committee members noted that court staff handle these as necessary by methods appropriate to each case and that no change to the form needs to be made.

The form was approved as revised.

18. **PCA 309, Consent to Adoption by Agency/Court**

The committee considered a suggestion from a circuit court adoption coordinator that a note be added to this form to indicate that the consenting court, if the signor, does not need to have the document notarized. The committee considered this request in light of MCL 710.44, which outlines the form of the consent and when the consent is required to be notarized. The committee agreed that the judge's signature does not have to be notarized and committee members supported adding a parenthetical after item 2 at the bottom of the form indicating "(notarization not required)."

The form was approved as revised.

19. **PCA 310, Petition for Hearing to Identify Father and Determine or Terminate His Rights**

The committee considered a draft of this form was modified internally by SCAO and presented for consideration in an effort to comply with ICWA and MIFPA. Specifically, the word "petition" in the title of the form was removed and replaced with the word "motion." Further, citations to 25 USC 1901 *et seq.* (for ICWA) and MCL 712B.1 *et seq.* (for MIFPA) were added to the bottom of the form. Also, the citation in item 5 was updated to reflect the location in the court rule for the definition of Indian child, now found at MCR 3.002(12). The committee agreed with the citation correction and with the additional citations, but, after some discussion, did not agree that the word "motion" should be added to the title.

Committee members also expressed a desire for an agency contact block to be added to this form. SCAO staff noted that if such a block was added, the form would become two pages. Committee members indicated that this was acceptable and determined a block for agency contact information should be added to this form.

The form was approved as revised.

20. **PCA 311, Notice of Hearing to Identify Father and Determine or Terminate His Rights**

The committee considered a draft of this form that was modified internally by SCAO and presented for consideration in an effort to comply with ICWA and MIFPA. Specifically, citations to MCL 712B.9 and MCL 712B.13(1)(b) were added to the bottom of the form. The committee agreed the addition of these citations to the form was appropriate.

The form was approved as revised.

21. **PCA 312, Order Terminating Rights of Father Without Release or Consent**

The committee considered a draft of this form that was modified internally by SCAO and presented for consideration in an effort to comply with ICWA and MIFPA. Specifically, citations to 25 USC 1901 *et seq.* (for ICWA) and MCL 712B.1 *et seq.* (for MIFPA) were added to the bottom of the form. Also, the citation in item 5 was updated to reflect the location in the court rule for the definition of Indian child, now found at MCR 3.002(12). The committee determined the addition of these citations to the form was appropriate.

The committee also raised the question of what happens with the use of PCA 312 where the father is deceased. The committee considered whether an item should be added under item 6 to allow the court to indicate that the father of the child is deceased and concluded it would be helpful. The committee briefly considered whether an item g should be "other" instead of specifically for a deceased father, but ultimately concluded "other" would not be as useful or as appropriate as the statement that the father was deceased. After further discussion, the committee settled on the language, "g. he is deceased."

The form was approved as revised.

22. **PCA 314, Notice of Intent to Release or Consent**

The committee considered a suggestion from a county adoption specialist that the word location near the bottom of the form be followed by the parenthetical "(complete address)." The committee discussed the fact that an individual might need to provide the location where the individual was found, which might not necessarily be a proper address. The committee determined it would be best to leave location open ended, so as to allow for occasionally unusual locations where an individual might be served.

The form was not modified.

23. **PCA 316, Notice to Putative Father and Custody Statement**

The committee considered a suggestion from a county adoption specialist that the line in item 3 be longer to allow for more space to indicate who the notice should be delivered to. The committee agreed that the line should be extended to the right margin. The committee also briefly discussed the format of item 3 and whether it should be in a block format instead of a blank line. Following a brief discussion, the committee determined it should remain a blank line.

The committee also briefly discussed how often this form was used. The committee members indicated that this form is used frequently and is an important tool. This discussion was in light of a comment from some groups that this form is not used frequently. The committee members noted that this is not used in state ward adoptions, but that in many cases this can be one of the most useful forms.

The form was approved as revised.

24. **PCA 318, Order Terminating Parental Rights after Release or Consent**

The committee next considered a draft of this form that was modified internally by SCAO and presented for consideration in an effort to comply with ICWA and MIFPA. Specifically, citations to 25 USC 1901 *et seq.* (for ICWA) and MCL 712B.1 *et seq.* (for MIFPA) were added to the bottom of the form. Also, the citation in item 4 was updated to reflect the location in the court rule for the definition of Indian child, now found at MCR 3.002(12). The committee agreed that these changes were appropriate and should be made to the form.

The committee also considered a suggestion from a circuit court adoption coordinator that under the line in item 5, instead of just saying "Name(s)," it should say, "Names of parent(s), agency, or court." The committee discussed whether it was ever appropriate to complete item 5 with the name of an agency or court given the reference to "parental rights" in item 5 and concluded that, in some cases, an agency or court may be acting *in loco parentis* and would be listed in item 5. The title of the form will also be modified to make this clear, so it will read: "Order Terminating Parental Rights/ Person In Loco Parentis After Release or Consent." In light of this change, which came as a result of a discussion of the language found in MCL 710.51(1) that indicates an order may pertain to a parent or any person *in loco parentis*, this citation was added to the bottom of the form. As the committee discussed this addition, it was noted that MCL 710.55(1) should not be on the form, and it should have been MCL 710.51(1). The committee approved the removal of MCL 710.55(1).

The committee also discussed whether a parenthetical listing whose rights might be terminated should be added below the blank line for name. After some discussion, the committee concluded that it would be best not to try to list all the possible names that would be appropriate and, instead, it should be left without an explanatory parenthetical.

The form was approved as revised.

25. **PCA 320, Order Placing Child After Consent**

The committee considered a draft of this form that was modified internally by SCAO and presented for consideration in an effort to comply with ICWA and MIFPA. Specifically, the citation in the note at the bottom of the form to MCL 712B.23 was updated to MCL 712B.23(1). The committee agreed this change was appropriate.

The committee next considered two suggestions made by a DHS adoption worker. The committee first discussed whether the second blank line in item 8 should be replaced with a specific time interval. The committee discussed the fact that MCL 710.52(1) indicates that investigations should be made at "reasonable intervals" and does not specify what those intervals are. The committee members discussed the fact that there are frequently varying intervals ordered and a specific time interval would not be appropriate. After a brief discussion, the committee determined no change should be made to item 8 in this regard.

The committee discussed a suggestion that item 8 be clarified to indicate that the supervision only continues "until the order of adoption is entered." The committee members noted that this appeared to be consistent with MCL 710.52, which indicates supervision continues until an order of adoption has been entered. After a brief discussion, the committee determined it would be best if this item were clarified in this regard. To this end, the committee agreed to add the following language to the end of item 8: ", until the order of adoption is entered." The committee believed this would clarify when the duty to supervise and make reports to the court ends.

The committee also discussed the language in item 5 and whether the phrase "both parents" should be modified. SCAO staff suggested that the phrase should likely allow for situations where there may only be one parent. The committee discussed when this situation might occur and, after a brief discussion, determined the item should be reworded to reference "the parent(s)" not "both parents."

The committee next discussed a suggestion from a judge that paragraph 9 should refer to *prospective* adoptive parents or petitioners, not adoptive parents. Committee members noted that the parents are not prospective anymore, because this form is a formal placement order. The committee determined no change should be made to item 9 on this form.

The form was approved as revised.

26. **PCA 322, Order Committing to Agency/DHS**

The committee discussed a draft version of this form that SCAO modified internally by adding citations to MCL 712B.13 and MCL 712B.23 to the bottom of the form. The committee determined the addition of these additional citations to the form was appropriate.

The form was approved as revised.

27. **PCA 323, Advice of Rights After Order Terminating Parental Rights (Adoption Code)**

As noted above under agenda item 7, the committee determined language should be added to the advice of rights form relating to the fact that the entry of the order terminating parental rights does not automatically end child support or eliminate arrears. See staff note below.

The committee also considered a suggestion made by SCAO staff that this form be split into two forms. The committee discussed the proposal that involved one form for use in where the child is an Indian child (PCA 323-I) and another form for use where the child is not an Indian child (PCA 323). The committee discussed whether it was necessary to have two advice of rights forms. Some committee members noted it would be better to have two versions so that there is no confusion regarding rights in cases that do not

involve Indian children. The committee believed including rights applicable only to cases involving an Indian child might lead to confusion and that it would be better to have two separate advice of rights forms. The committee also determined that the citation to MCL 712B.13(1) in the title and in item 2.c. on the proposed PCA 323-I was not necessary and should be removed. The committee also agreed that a citation to 25 USC 1913(c) should be added the bottom of the form. This was due to the fact that PCA 323-I should be used in any cases involving an Indian child, not just specific cases under MCL 712B.13(1). The committee noted that this is due to the fact that the focus of ICWA and MIFPA is the Indian child, not the parent.

The committee then discussed whether the use note on PCA 323 directing use of PCA 323-I in cases involving an Indian child was necessary. Some on the committee commented that they did not want any reference to PCA 323-I or Indian children on PCA 323, as it could cause confusion. Others, however, believed it was important to reference the existence of PCA 323-I on PCA 323 so as to help avoid the use of the wrong advice of rights form in a case involving an Indian child. A majority of the committee ultimately determined the use note at the bottom of PCA 323 was appropriate and should reference when PCA 323-I should be used. A use note was proposed at the bottom of PCA 323 to indicate, "If the child is an Indian child and both parents consented to adoption under MCL 712B.13, use form PCA 323-I. If the child is an Indian child and both parents did not consent to adoption under MCL 712B.13, use this form." However, in light of the change to PCA 323-I to allow it to be used in all cases involving an Indian child, the use note on PCA 323 was modified to read, "If the child is an Indian child use form PCA 323-I."

The form was approved as revised.

Staff note: After internal review of the exact language to be added to PCA 323, SCAO staff came up with the following to be added to the form: "Entry of an order terminating the rights of the parent(s) terminates the custody and parenting time provisions in any divorce, separate maintenance, or similar custody action. This does not eliminate any financial obligations that have accrued under any prior support order. An order terminating parental rights does not stop ongoing child support charges." This language will also be added to PCA 323-I.

28. **PCA 325, Notice to Adopting Parents on Pending or Potential Appeal/Rehearing**

The committee discussed two suggestions from a DHS adoption worker pertaining to this form. The committee first discussed whether the "TO" line should be amended to indicate under the blank line that it is to be filled in with the names of the adopting parents. The committee agreed that this form could be confusing and frequently the "TO" line is filled out incorrectly. The committee discussed a suggestion that the "TO" line be eliminated altogether, because it was not necessary to indicate who the form was going to be sent to. The committee agreed that this line should be removed from the form.

The committee next discussed the second suggestion from a DHS adoption worker that

the language in item 1, following the first checkbox, should be modified to be more easily understood by the adoptive parent(s). The committee acknowledged that the form could be confusing in this area and discussed whether there was a better way to word item 1. Some on the committee noted that given the breadth of possible time periods that could apply in different types of cases, it would be too difficult to draft something short and simply that could make the form easier to understand. Others suggested it might be possible to draft something that is more easily understood by the public. Ultimately, after some discussion, the committee determined that the language in item 1 should not be changed and should continue to closely track the statutory language.

The committee also discussed a suggestion from an attorney and a circuit court adoption coordinator that a line should be added to allow an attorney to be a signatory on the form. The committee discussed the language found in MCL 710.41(2) that indicates that the notice shall be provided by the child placing agency, the court, or the department. The committee noted that the statute does not reference an attorney providing this information. The committee had a lengthy discussion regarding the use of this form and when and how it should be used. Some on the committee noted this issue might be one that could be addressed by statutory amendment, if the adoption code were to be opened up for other modifications. Ultimately, the committee did not believe adding an indication that an attorney could sign was appropriate. However, because the signature line should track the language of the statute, the committee determined that the signature line should be modified to reference “agency” not “agent.”

The committee also discussed what name should go after “In the matter of.” Some on the committee indicated that if the child’s name had been changed, they put the new name. However, others indicated that this line is for the case name and should not be changed from the case name of the file. The committee briefly considered whether the case name is even necessary on this form, given that the form is only a notice. However, after further discussion, the committee determined it was useful to help identify the case it pertained to and should remain on the form. The committee also discussed confidentially issues that arise using the surname of the child and when information needs to be redacted. After some discussion regarding the use of this line, the committee determined no change was necessary at this time and tabled this issue at this time. The committee members indicated that if someone had a proposal relating to this issue in the future, it could readdressed.

The form was approved as revised.

29. **PCA 328, Certificate of Adoptive Information**

The committee considered a suggestion from a DHS adoption worker regarding why PCA 328 uses the phrase “natural parents” in item 3. The committee discussed the fact that 25 USC 1951 requires that when where an Indian child is being adopted the notice must contain the names and addresses of the “biological parents.” 25 USC 1951(a)(2). The committee discussed that people working in the adoption field do not like the phrase “natural parent” because it could be interpreted to mean that the adopting parents are

somehow "unnatural." The committee reviewed 25 USC 1951(a)(2) and determined that because the statute uses the term "biological parents," the form should be modified to use language consistent with the statute. This change was made to the references to natural parent in item 3.

The committee next considered a suggestion from a county adoption specialist that under the signature line at the bottom of the form it should indicate "deputy clerk" or "signature of clerk." SCAO staff noted that the statute does not require a signature. Instead, the statute requires the court to provide the information, without indicating who from the court should provide it. In order to make this clearer on the form, the committee agreed that after the word signature at the bottom of the form it should say, "of court representative."

Further, based on the committee's previous determination to add a line to print the name of someone (other than a judge) signing a form, a line will be added to the form to print or type the name of the individual signing the form.

It was also noted by SCAO staff that the standard now for adoption cases is "file no." not "case no." and that the reference in the upper right portion of the form should be changed accordingly. The committee agreed.

The form was approved as revised.

30. **PCA 330, Statement of Parent/Guardian Transferring Physical Custody of Child for Adoption**

The committee was advised that last year, the adoption work group tabled consideration of PCA 330. The issue considered was whether the report section at the bottom of PCA 330 should be moved to the bottom of PCA 340. At the meeting last year, SCAO staff indicated that the report was on PCA 330 in compliance with MCL 710.23d(2), which is a two day reporting requirement. It was argued that PCA 330 fulfills the requirement for a statement pursuant to MCL 710.23d(1)(c) and (d), the authorization required under MCL 710.23b, and the report required under MCL 710.23d(2). It was noted that while an agency might find it more convenient to have a report following the statement of identifying information, PCA 340 was designed to meet the requirements of MCL 710.24(8). After a brief discussion and consideration, the committee determined no further action was necessary on this issue at this time.

The committee also discussed a suggestion from an attorney that the statement in item 2.b. and in the report to the court on page 2 should be modified to indicate "full identifying information is not being exchanged" instead of just "identifying information." The committee discussed that this might be useful in situations where some information is exchanged but full identifying information is not exchanged. It was suggested that by adding the word "full" it would alleviate some issues that come up relating to the exchange of information during a placement. The committee agreed this change was appropriate.

The form was approved as revised.

31. **PCA 333, Follow-Up Report After Temporary Placement of Child for Adoption**

The committee considered a suggestion from an attorney that paragraph 4 be modified to appear as follows: a. A petition for adoption was submitted for filing on _____. b. Strike the phrase, "no petition for adoption was filed." Strike item c. entirely. The committee discussed whether these changes should be made in light of the language in MCL 710.23d(3) requiring the report indicate whether or not one of the listed dispositions occurred. The committee discussed that the court would know when a petition was filed. It was suggested by one committee member that item 4.a. should be modified to end after the word county and remove the date of filing. The committee agreed this was appropriate and approved this change. The committee also discussed the fact that 4.b. is not always entirely accurate because a petition might have been filed but the child is still returned at some point. The committee also discussed whether item 4.b. should continue to have checkboxes to indicate who the child was returned to or if it should be a blank to indicate who the child was returned to. The committee determined that the checkboxes should remain as they are to avoid confusion. After a brief discussion, the committee agreed that item b. should be simplified to reflect that, "the child was returned to" with the rest of item 4.b. remaining the same. The committee also discussed the use of item 4.c. and noted that it would never be neither a. or b., therefore, item c. should be removed. The committee agreed that item c. should never be used and that item c. should be removed.

The form was approved as revised.

32. **PCA 334, Clerk's Report to Prosecuting Attorney**

The committee discussed a suggestion from a county adoption specialist that a field be added to the form to allow the typed or printed name of the clerk signing the form. The committee discussed the fact that this form is not frequently used. The committee agreed that no change was necessary to this form.

The form was not modified.

33. **PCA 338, Statement to Accompany Release**

The committee considered two suggestions from an attorney relating to this form. The committee first discussed the use of the first checkbox in item 4 and whether it should be modified to read, "I have or intend to receive counseling for this adoption." Some on the committee noted that this was not consistent with the language found in the statute at MCL 710.29(5)(b), which requires that the release indicate whether "the parent or guardian has received counseling related to the adoption of his or her child or waives counseling with the signing of the verified statement." While most on the committee noted that this appeared unfair, if there was a situation where the parent intended to

receive counseling and did not want to waive counseling, others noted that the form cannot be changed to reflect actual practice that does not comply with statute. Instead, the form must accurately reflect what the statute allows. The committee agreed that the form should not be modified, but only due to the language in the statute that precludes this as an option.

The committee also briefly discussed the requirement for adoptive parents to pay for counseling indefinitely under MCL 710.54(5), unless counseling was waived. Some on the committee believed this section would support the argument that the form could indicate a future intent to receive counseling. Others, however, noted that MCL 710.29(5)(b) only allows for two options, either the parent has received counseling or the parent is waiving the right to receive counseling. The committee also discussed the fact that MCL 710.29(5)(b) may have intentionally been drafted to require either that counseling had already begun or that counseling would be waived, so as to have some point in the proceeding where this determination is made. The committee discussed the fact that if there was a desire to allow for a statement of a future intent to obtain counseling, instead of waiving or saying the individual already had counseling it would require a change to the statute by the legislature.

The committee next discussed whether the word “schedule’ in item 5 should be replaced with the words “verified accounting.” The committee noted that the phrase “verified accounting” is the title of the form that should be used and it would be clearer to use the term consistently. The committee noted the schedule is just the back of the verified accounting. The committee agreed the word “schedule” should be replaced with the phrase “verified accounting.”

The committee also considered a suggestion from a circuit court adoption coordinator that this form and PCA 348 both be modified to include a signature line for the parent or guardian of an unemancipated minor, who is the parent releasing, to sign the form. This would be similar to the lines that appear like this on PCA 305 and PCA 308. The committee considered whether this was necessary in light of the fact that while the release or consent forms must include the signature of the parent, guardian, or guardian ad litem, where the parent of the child to be adopted is an unemancipated minor, see MCL 710.28(2) (for release) and MCL 710.43(4) (for consent), no such requirement appears to exist for the statements to accompany the release and consent. See MCL 710.29(5) (for release) and MCL 710.44(5) (for consent). Despite the lack of a requirement for the statements to accompany a release or consent, the committee expressed a concern over unemancipated minors signing anything without their parent or guardian. This concern was expressed with respect to the adoption forms where the unemancipated minor signs without the parent or guardian.

The committee discussed whether there was a general requirement regarding the signature of a minor and how that interacted with a minor signing a statement to accompany a release, where the unemancipated minor is the parent. The committee also discussed whether there was any other requirement that might make it necessary for the statement to also be signed by the parent or guardian of an unemancipated minor.

Committee members noted that, as a matter of practice, they would want the parent or guardian of an unemancipated minor parent to also sign the statement to accompany the release. Ultimately, the committee determined that the statute did not preclude such a signature line on this form and that a signature line for the parent/guardian of an unemancipated minor should be added to this form, similar to the format found on PCA 330. The committee also determined a similar signature line should be added to PCA 310, 339, and 348 for the same reasons. However, when adding this line to the form, it will be made clear it is not required so that if there is a circumstance where the parent or guardian will not or cannot sign the document, the proceeding may still be able to move forward.

The committee also determined that the term "parent" in item 6 should be modified to "parent(s)."

The form was approved as revised.

34. **PCA 339, Statement to Accompany Consent in Direct Placement**

The committee discussed a suggestion from a county adoption specialist that a new item with a checkbox in front of it be added to indicate when the individual is being assisted by an attorney and what was received from the attorney. However, the committee determined that because the statute, MCL 710.44, requires no such statement, it should not be included on the form. Additionally, some on the committee expressed a concern that the inclusion of such a checkbox could implicate the attorney-client privilege.

As noted above, under agenda item 33, the committee discussed a number of suggestions from an attorney, similar to those made regarding PCA 338. The committee concluded the same changes to PCA 339 should be made. Specifically, the committee determined it was not appropriate to add that the individual intends to receive counseling on the form, for the reasons noted in agenda item 33. The committee also determined that the word "schedule" in item 5 should be replaced with the words "verified accounting." The committee also determined that the last word of item 6 should say "adoptive parent(s)" instead of "adoptive parent."

Further, as noted above under agenda item 33, the committee determined a signature line should be added for the parent or guardian of an unemancipated minor, who is the parent consenting, to sign the form.

The committee also briefly discussed whether any changes are necessary to the form in light of MIFPA, specifically MCL 712B.13(6)(a)-(f). The committee discussed this briefly and determined there no change required at this time.

The form was approved as revised.

35. **PCA 344, Petition and Order for Release of Information from Confidential Intermediary and Court**

The committee discussed a suggestion from a circuit court adoption coordinator that another line be added under the "Order" portion of the form to accommodate MCL 710.68b(6)(c). The committee discussed whether MCL 710.68b(6)(c) allows the court to deny the request outright, as good cause to release the information was not shown. Some on the committee noted that this is not expressly an option under MCL 710.68b(6)(c), but others commented that while it is not expressly an option, it is only logical and is not expressly precluded. Moreover, some on the committee noted that, in general, courts always have the option of denying a request and to read the statute as precluding that would possibly lead to an absurd outcome, which rules of statutory interpretation disfavor. After a significant discussion regarding the meaning of the language in MCL 710.68b(6)(c), the committee determined it can be read as implicitly allowing a court to deny a request. The committee concluded that item 7 should be modified to read: "The identifying information in MCL 710.27(3) and any additional information obtained by the confidential intermediary shall be released to the adult adoptee." A new item 8 with a checkbox will be added to the form that says: "Petition denied."

The form was approved as revised.

36. **PCA 347, Petitioner's Verified Accounting**

The committee discussed a suggestion from an attorney indicating that there is some confusion regarding the use of this form and whether the birth certificate correction fee should be reported under item 1 on page 1, or elsewhere on the form. Some on the committee noted that they have experienced significant inconsistency from county to county relating to this fee. After discussing the importance of having the form used consistently and in including this fee somewhere, the committee determined the second page, describing what goes in item 9, should be modified to specifically indicate it should include a "birth certificate fee."

The committee next discussed a suggestion by a circuit court adoption coordinator that there is confusion regarding the use of this form. Specifically, there is confusion relating to the use of the form as either the 7-day or 21-day accounting. Some on the committee thought the form was clear regarding how and when it would be used. However, others noted that they have seen a number of problems with the use of the form in practice, primarily stemming from the fact that it can be used for either a 7-day or 21-day accounting. The committee discussed the fact that the last sentence in the paragraph at the top of the form is frequently misinterpreted. The committee agreed this was not necessary and should be removed. The committee went on to discuss the use of the form and how the form is used when it is used for a 7-day accounting versus a 21-day accounting. Others on the committee indicated that it should be clear on the form that a 21-day accounting does not need to be completed in certain case types where there has been no change, pursuant to MCR 3.803(A)(2). Based on this discussion, it was determined that a use note should be added to the form to indicate a 21-day accounting is not necessary if the fees have not changed since the 7-day accounting. The committee went on to discuss that when the form is used for a 21-day accounting, whether the form should include a

reference to the amount of the 7-day accounting, so the total would be apparent on one form. Others on the committee noted that this was not necessary, as the amount from the 7-day accounting will already be in the file. The committee also discussed whether MCR 3.803 should be included as a citation on the form, but did not determine it was necessary at this time.

After further discussion regarding the use of this form and the statutory requirements for filing accountings, it was suggested that the form be broken into two separate forms. The first would be a 7-day accounting based on the current form. The new form would be for accounting for additional expenses following the 7-day accounting and would look different than the 7-day accounting form. The committee discussed whether the new accounting form would include a place to put the total of all accountings. While some on the committee supported the inclusion of a provision like this, others noted the court could determine on its own, from the file, the total. Ultimately, it was determined no total should be included on the new accounting form. The committee also discussed how the new form should be titled. Based on the statutory language, the committee determined it should be called an "update" to the 7-day accounting.

The form was approved as revised.

37. **PCA 349, Petition for Rescission of Adoption and Order**

The committee discussed two suggestions from a circuit court adoption coordinator regarding this form. First, the committee discussed whether a line should be added to the form to indicate if the petitioner is filing a new certificate of live birth, pursuant to MCL 710.66(3). After some discussion, the committee determined a new item 4, with a checkbox in front of it, should be added to the form, which will indicate: "A copy of my new live birth certificate is attached." The subsequent numbers on the form will be adjusted to accommodate the new item.

The committee next discussed whether any change should be made to the form in light of MCL 710.66(4), which indicates that upon receipt of a rescission petition, the court "shall conduct a hearing after notice" has been properly served on interested parties. The committee discussed who was an interested party and whether the form should be changed in any way to provide guidance as to service on interested parties. However, others on the committee noted there is nothing currently on the form to indicate who it was served on or that provides guidance as to who the interested persons are. The committee ultimately determined it was a matter for the court to determine if the proper interested persons had been served and that no change relating to this issue needs to be made to the form.

The form was approved as revised.

38. **PCA 350, Motion and Order for Delayed Registration of Foreign Birth**

The committee discussed a number of suggestions made by a circuit court adoption

coordinator. First, the committee discussed whether the description of the child's name should be changed from, "Full name of child" to "Current full name of child" at the top of the form after "In the matter of." There was some discussion regarding whether this would result in inconsistencies in a case name, but the committee members noted this was the form that would start the case. Therefore, the committee determined it was appropriate to indicate under the line: "Current full name of child." Based on this discussion, it was also determined that this form should not be entitled motion and should instead be identified as a petition. The committee agreed that the references on the form to motion should be changed to petition.

The committee next discussed the fact that item 1 on the form assumes the individual making the motion is married. The committee discussed whether this assumption was always accurate and determined it was not. In order to remove this apparent presumption, the committee determined that the words "my spouse and I" should be removed from the form.

The committee next discussed whether the references on this form to "adoptee" should be replaced with "child." The committee discussed that because MCL 710.22(a) defines an "adoptee" as the individual who is to be adopted, and this form is used after the adoption, this term may not be appropriate. The committee agreed that when this form is used, the child has already been adopted and the term adoptee is not accurate. Therefore, the references to adoptee on this form will be changed to "child." This includes changes in items 2, 3, and 5.

The committee also discussed whether the second line in item 4 should be modified to read, "established by court order and the **new** name of the child be recorded as:" instead of the current language. The committee discussed the fact that the phrase "new name" is used by MCL 333.2830. The committee determined this was appropriate and the word "new" was added before the word "name" in item 4.

The form was approved as revised.

39. **PCA 351. Order Following Hearing on Review of Adoption Placement (IV-E Eligibility Compliance)**

The committee considered an inquiry regarding why this form was only used for Title IV-E eligibility compliance. The committee noted that this is due to the fact that the form was created expressly for this purpose and is used to comply with 42 USC 671(a)(15). The committee determined no changes or further explanation on form was required.

The form was not modified.

40. **PCA 352, Notice of Adoption Proceedings Concerning an Indian Child**

The committee discussed a suggestion from SCAO staff that the citations to MCL 712B.13 and MCL 712B.23 should be added to the bottom of the form. The committee

determined this modification was appropriate. The committee also determined that the reference in item 6 to rights under ICWA should also reference MIFPA.

The form was approved as revised.

41. **Proposed New Form: Publication of Notice of Hearing for use in Adoption Cases**

The committee considered whether a new form should be developed, potentially modeled on PC 563, for publication of notice of hearing for use specifically in adoption cases. PC 563 had been used, but the probate forms were modified to remove references to the family division. However, the committee discussed that PC 563 can still be used for this purpose in adoption cases, but some of the information is not accurate. The committee determined that it would be better if the form was modified slightly and given a new form number so that it was made available for use in adoption cases.

This new form was approved for development and will be largely modeled on PC 563.

42. **Proposed New Form for use in Adoption Cases under MIFPA where Consent is Withdrawn**

The committee considered a draft proposed form for use in light of MIFPA where the minor child is an Indian child and the consent or release is withdrawn. The committee discussed that in other circumstances similar to this situation there is not a form for revoking and considered whether a form needed to be created for use in cases involving an Indian child. The committee reviewed the proposed rules relating to MIFPA and found no requirement that a revocation be completed on a form approved by the SCAO. The committee noted that there are many ways and times where an individual decides to revoke their previous consent or release.

Ultimately, the committee determined that the form should not be created at this time.

At the end of the meeting the committee discussed whether any forms should be distributed in June, given that the forms relating to Indian children cannot be finalized until the court considers the proposed court rule modifications relating to MIFPA. At that time, there was some discussion regarding issuing the forms in two separate sets, first those not affected by the MIFPA court rule changes and a second set to go out at the end of the year after the rule changes. However, after internal consideration, it has been determined it would be best to distribute the forms all at one time at the end of the year.

Meeting adjourned at 3:30 p.m.

Respectfully submitted,

Colin Boes