



Michigan Supreme Court
State Court Administrative Office
Trial Court Services Division
Michigan Hall of Justice
P.O. Box 30048
Lansing, MI 48909

Amended April 28, 2016

MICHIGAN COURT FORMS COMMITTEE
Civil Work Group
Minutes of March 10, 2016 Meeting

- Present: Hilary Arthur (for Mary Hollinrake), Kent County Clerk's Office
Julie Dale, 3rd Circuit Court
Laura Echartea, 36th District Court
Kathy Griffin, 45th Circuit Court
Chalunda Hamilton, 46th District Court
Hon. Jon Hulsing (via phone), 20th Circuit Court
Hon. Pamela Lightvoet, 9th Circuit Court
Hon. David Parrott, 34th District Court
Curtis A. Robertson, Weber and Olcese, PC
James Schaafsma, Michigan Poverty Law Program
Angela Tripp (via phone), Michigan Legal Help
Jay Francisco, Judicial Information Systems (Staff)
Amy Garoushi, Trial Court Services (Staff)
Bobbi Morrow, Trial Court Services (Staff)
Michele Muscat, Trial Court Services (Staff)
Matthew Walker, Trial Court Services (Staff)
Stacy Westra, Trial Court Services (Staff)
- Absent: Hon. Annette Berry, 3rd Circuit Court
Hon. Patricia Jefferson, 36th District Court
Carolyn Povich, 40th District Court
Stuart Sandweiss, Sandweiss Law Center PC

Sherri Sayles, 20th Circuit Court
Rebecca Smith, Rhoades McKee PC
Liz Stankewiz, 89th District Court

Meeting called to order, 9:45 a.m.

District Court Session

1. Minor Changes

DCH 110, Order to Release Escrow

The committee discussed and agreed with the suggestion to revise the citation in the footer of the form to MCR 4.201(N) and to correct a typographical error in the body of the form. Members added a space between the words “in” and “the” in item 2 and changed the citation in the form footer from MCR 4.201 to MCR 4.201(N).

The form was approved as revised.

CIA 07, Default Judgment Civil Infraction

Members agreed to a correction to the placement of the grid on the address side of the postcard. The grid was moved up one typewriter line to accommodate hard-coded programming on case management systems.

The form was approved as revised.

STAFF NOTE: After consultation with JIS, the word “TO” was also removed from the form to accommodate printer alignment of some courts.

DC 100a, Demand for Possession, Nonpayment of Rent, Landlord-Tenant

DC 100b, Demand for Possession, Damage/Health Hazard to Property, Landlord-Tenant

DC 100d, Demand for Possession, Termination of Tenancy, Mobile Home Park - Mobile Home Owner (Just-Cause Termination)

DC 100e, Demand for Possession, Termination of Tenancy Due to Unlawful Drug Activity on Premises, Landlord-Tenant

The committee discussed and agreed with the suggestion to revise DC 100a, 100b, 100d, and 100e to remove nonfunctioning website links from the instructions.

On page 2 of each form, members deleted the web address in two places in the

instructions: item 1 of the notice checklist and the last paragraph. The checklist was renumbered accordingly. The last paragraph was revised to state, “If you have questions about any step in the process, refer to page 3 of this booklet for details.”

The committee also removed the web address on page 4 of each form and revised the last paragraph in the instructions to state, “You should read this booklet for directions on the legal process.” However, the committee indicated it was preferable to replace these links with a reference to MichiganLegalHelp.org if that website has content regarding these forms. Staff indicated that they would contact Michigan Legal Help (MLH) to verify this. **Staff Note:** SCAO contacted MLH, and it does not currently have content for all of these forms. Therefore, the forms instructions will remain as changed by the committee.

Although not on the agenda or published for comment, the committee also changed item 3 in the “How to Get Legal Help” section of the Tenant’s copy of each form. Members replaced the website link to www.michiganlegalaid.org with www.michiganlegalhelp.org because the MLH website provides information that is more valuable. **Staff Note:** SCAO verified that the link to www.michiganlegalaid.org is automatically routed to www.michiganlegalhelp.org.

The forms were approved as revised.

STAFF NOTE: During typesetting, additional changes were made for grammar, style, and the application of standards. In addition, reference to the Michigan Department of Community Mental Health on the Explanation of Just-Cause Terminations page was updated to Michigan Department of Health and Human Services.

2. **CIA 03, 14 Day Notice, Civil Infraction**

The committee discussed the suggestion to reinstate the certificate of service language from a previous version that provided for service by regular mail instead of first-class mail. The reason for this request is because many courts use a postcard version of this form and lower mailing rates apply to postcards. To determine the authority to send the notice by regular mail, the committee reviewed MCL 257.321a(2) and the court rule. The statute specifies that “28 days after a person fails to answer a citation...the court shall give notice by mail at the last known address of the person that if the person fails to appear...the secretary of state shall suspend the person’s operator’s or chauffeur’s license.” Members also reviewed MCR 4.101(B) but the rule does not prescribe the method of service for this notice.

Because MCR 4.101(B) is silent in this regard, staff indicated the general civil rules in chapter two apply pursuant to MCR 4.001. Therefore, it appears that the first-class mail rule in MCR 2.107(C)(3) requires this form to be sent first-class mail. However, many courts mail this notice in the form of a postcard, which can be sent by regular mail rate.

Members acknowledged the disparity between court rule and MCL 257.321a but also noted that MCL 257.321a(2) refers to “mail,” while other sections of the statute refer to “first-class mail.” Members contended that this difference in nomenclature from one section to another implies a difference in legislative intent. Therefore, regular mail appears to be authorized whether the notice is mailed in letter format or postcard format. The committee concluded that the certificate language from the previous postcard version should be reinstated.

The committee also discussed the suggestion to modify the language “If you fail to comply with the judgment and pay the amount due on or before _____.” The court making this suggestion uses a postcard version of this form, which was adversely affected by a previous revision. Because the postcards are pinned in bulk on an impact printer, the postcard cannot contain fill-in fields on the nonprintable (static) side of the form. The change in 2015 affected the static side of the postcard. Therefore, the suggester submitted the following language for the committee to consider: “If you fail to complete the judgment rendered in this case within 14 days.” Members agreed the change was necessary but commented that the public might not easily understand the suggested language. Members considered several alternatives. One suggestion was, “If you fail to pay the amount due within 14 days of the date this notice was mailed.” Members indicated that the mailing date would be satisfactory because the postcard would be generated with the mailing date. However, JIS staff pointed out that notices are typically issued at the end of the day and may not be mailed until the next day. In addition, MCL 257.321a(2) states that, “...if the person fails to appear or fails to comply with the order or judgment within 14 days after the notice is issued... .” Therefore, the mailing date would be incorrect. Ultimately, the committee changed the language to “If you fail to pay the amount due within 14 days of the date of this notice.*”

Members expressed concern that the date of the notice would not be evident to the recipient. Staff suggested that the statement be cross-referenced with the Notice of Failure to Comply with Judgment section by an asterisk. The committee agreed that a corresponding field for “Date of Notice*: _____” would reduce possible confusion and made the change.

The committee focused its attention on the certificate of mailing again. Members pointed out that the certificate of mailing is misleading because the mailing date and issue date are not the same. Further, because the defendant is notified that the 14-day timeline is triggered by the date of notice, there is no need to certify when the notice was mailed. As a result of the discussion, the committee removed the certificate of mailing language, date field, and signature field.

The form was approved as revised.

STAFF NOTE: During typesetting, additional changes were made for grammar, style, and the application of standards.

3. New Form, Order of Forfeiture of Other Reachable Property

The committee discussed this proposed form, drafted as a result of a 2015 suggestion to accommodate a new section of forfeiture law under MCL 600.4708(3). Members discussed multiple items on the form but questioned whether the form was actually needed.

After further discussion, the committee tabled the item and asked staff to inquire of the Michigan District Judges Association whether such a form is needed.

Development of the form was tabled.

4. DC 53 Appeal Worksheet for Application for Leave to Appeal; DC 54 Appeal Worksheet for Claim of Right of Appeal

The committee discussed the suggestion to revise forms DC 53 and DC 54 to include a parenthetical in item 4d that the \$25 appeal fee is for civil cases only. Staff remarked that a question about this same issue was recently answered by the SCAO, and as a result, the form should not be revised. The basis for this conclusion is that MCL 600.6536 states, "In every appeal from a district, municipal, or common pleas court, the appellant shall pay to the clerk of the trial court the taxable costs of the prevailing party, together with \$25.00." Because there is no distinction between criminal or civil appeals in this statute, SCAO has determined every appeal from district court requires the appeal fee. Committee members agreed with this interpretation.

The forms were not revised.

5. DC 84, Affidavit and Claim (Small Claims)

The committee discussed the suggestion to move the language "See instructions on the back of the plaintiff and defendant copies" to provide more space for the court address and telephone number. Staff indicated that space could be allocated by rearranging the distribution. Members agreed with this change to the form.

Members also changed the language of "See instructions on the back of the plaintiff and defendant copies," to "See additional notice and instructions on the back of the plaintiff and defendant copies," to more accurately reflect the title of the "Additional Notice and Instructions" section.

Although not on the agenda or posted for comment, the committee discussed necessary

changes to the fee information in item 2 of the instructions on page 3. As a result of recently passed legislation, an additional \$5 electronic filing system (EFS) fee is charged to small claims actions. Members agreed that the EFS fee should be added. Some members thought replacing the current fee listed in the form with updated total amount would be sufficient, while other members thought the fees should be stated separately. Ultimately, members settled on: “\$30 for damage claims up to \$600 (\$25 filing fee + \$5 electronic filing system fee); \$50 for damage claims from \$600 to \$1,750 (\$45 filing fee + \$5 electronic filing system fee); \$70 for damage claims over \$1,750 to \$5,500 (\$65 filing fee + \$5 electronic filing system fee).”

In addition, the committee corrected the citation to the Service Member’s Civil Relief Act in the footer from “50 USC 521” to “50 USC App 521.”

The form was approved as revised.

STAFF NOTE: During typesetting, a broken weblink was removed from the instructions on page 2. The modified text now states, “If you have questions about any step in the process, refer to pages 3 through 5 of this booklet for details.”

6. DC 86, Demand and Order for Removal (Small Claims)

The committee discussed the suggestion to add a field for the new general civil case number when the case is removed from small claims to district court. Members agreed that including the general civil case number would be helpful. Members added the case type codes “-SC” and “-GC” in the case number field as indicators for the small claims and general civil case numbers.

The committee also discussed the suggestion to add an instruction in the order section that an attorney must represent a party who is a corporation or LLC when the case is removed to district court. Members remarked that there is no need for such instructions because more often than not an attorney is removing the case and should already be aware of the representation requirement.

The committee addressed the comment from Linda Powell of the 52-3 District Court that suggests language be added to inform the defendant of possible default for failing to file an answer. Members remarked that, because a summons is not issued when a small claims case is removed to civil court, some litigants are not likely to know about the requirement to file an answer. Members changed the language from “The defendant shall file a written answer and serve it within 14 days from the date of this order as provided in court rule,” to “The defendant shall file a written answer and serve it within 14 days from the date of this order or be subject to default as provided by court rules.”

The form was approved as revised.

STAFF NOTE: During typesetting, the language informing the defendant of possible default was modified to mirror the language on MC 01, Summons and Complaint, for clarity and consistency. The modified language states, “The defendant has 14 days from the date of this order to file a written answer and serve it on the other party or take other lawful action with the court. If the defendant does not answer or take other lawful action within the time allowed, judgment may be entered for the relief demanded in the complaint.”

7. **DC 100a, Demand for Possession, Nonpayment of Rent, Landlord-Tenant**
DC 100b, Demand for Possession, Damage/Health Hazard to Property, Landlord-Tenant
DC 100c, Notice to Quit to Recover Possession of Property, Landlord Tenant
DC 100d, Demand for Possession, Termination of Tenancy, Mobile Home Park - Mobile Home Owner (Just-Cause Termination)
DC 100e, Demand for Possession, Termination of Tenancy Due to Unlawful Drug Activity on Premises, Landlord-Tenant

The committee considered a suggestion to revise DC 100a, 100b, 100c, 100d, and 100e to include electronic service as an option as provided by MCL 600.5718. Members reviewed the statute and concluded that the condition for electronic service, including written consent to electronic service of the demand, would be very difficult to easily set forth in the certificate of service on the form and would require additional instruction sections and form sections. In addition, members thought it was unlikely electronic service would be used very often. For these reasons, the suggestion was not adopted.

The forms were not changed.

8. **DC 103, Complaint for Possession After Land Contract Forfeiture**

The committee discussed a suggestion to remove the field for “Last payment _____”
Date

from item 3a because there is no statute or court rule requiring that the last payment date be provided. Members responded that while there is no statute or court rule requirement that the last payment information be provided, it is useful information the court is likely to ask for at the hearing. For this reason, the committee did not remove the field.

The form was not changed.

9. **DC 104, Summons Landlord/Tenant**

The committee discussed a suggestion to revise item 3 to indicate that a trial is contingent on a judicial finding that a triable issue exists as required by MCR 4.201(J)(2). Item 3

states, “You have the right to a jury trial.” Members acknowledged the practical reasons for the suggestion. However, the committee indicated that there is a right to a jury trial in the Michigan constitution and that the information provided on the form is intended to advise the defendant of the right to demand a jury trial, not to convey specific conditions for trial. Given this, members did not adopt the suggestion.

The form was not changed.

10. DC 105, Judgment, Landlord-Tenant

Last year the committee revised item 2a of this form after considering a request from Attorney Marc Landau. It has been suggested by Mr. Landau that the language of item 2a should be changed to “Rent,” to clarify that the defendant would not necessarily retain possession by paying the amount specified in “Rent to retain possession.” Mr. Landau contends that rent includes more than the amount specified in the judgment because of rent incorporation clauses (lease clauses that define rent as including other money such as a water bill, or cable bill). Mr. Landau explained that rent incorporation clauses are commonly used in his geographic area.

The committee understood the rationale for Mr. Landau’s request but concluded that the form should not be changed for several reasons. First, the current language allows for leases with rent incorporation clauses as well as standard leases. Furthermore, the definition of rent is a judicial determination based on the lease, and the form should not dictate that definition.

Members acknowledged the form is confusing and that both attorneys and judges may be unclear about how to properly complete some of the fields. The committee decided the form should be redesigned and asked the SCAO to provide a draft for the 2017 meeting. In addition, the committee changed the citation to the *Service Member’s Civil Relief Act* in the footer from “50 USC 521” to “50 USC App 521.”

The form was not changed.

11. DC 106, Judgment of Possession After Land Contract Forfeiture

The committee discussed the suggestions to make this form clearer. The committee agreed with the suggester that the current language in item 6 appears to require courts to enter total amounts owed in three places, which is unnecessary. The committee agreed with the suggested language and changed the form accordingly. The committee also made grammatical changes and renumbered items as necessary.

Item 4 was revised from “[] 4. There is no cause for action” to “[] 4. There is no cause of action.” New items 5 and 6 were added stating, “[] 5. Less than 50% of the purchase

price has been paid. 6. 50% or more of the purchase has been paid.” Subsequent items were renumbered accordingly.

Item 8 (former item 6) was revised to state, “An order of eviction may be issued upon expiration of 90 days 6 months after entry of this judgment if the defendant does not: pay the total amount due in item 3 above. cure the following breach: _____.”

In addition, the committee corrected the citation to the *Service Member’s Civil Relief Act* in the footer from “50 USC 521” to “50 USC App 521.”

The form was approved as revised.

STAFF NOTE: During typesetting, items 5 and 6 were combined as items 5a and 5b because they are two options for the court. Item 9 was modified from “This must comply with all court rules and...” to “Any motion or appeal must comply with the court rules and...,” to clarify the meaning of the sentence. A citation for MCL 600.5744(3) was added to the footer as authority for the new item 8.

Additional changes were made for grammar, style, and the application of standards.

12. DC 107, Application and Order of Eviction Landlord Tenant

The committee discussed the suggestion to add a case number box to the back page (or page 2) as a cross-reference to the case file for the return copy. Because many forms are completed online and are no longer pre-printed two sided, it is necessary to add case number cross-references to second pages. The committee agreed with the suggestion and added a case number field according to forms standards.

The form was approved as revised.

STAFF NOTE: The “seal” was removed pursuant to the committee’s 2006 reasoning that the seal language should not be placed on forms that do not require a seal by statute or court rule. There is no statutory or court rule authority that requires an order of eviction to be sealed.

Joint Session

13. Minor Changes

MC 305, Order for Security for Costs

The committee discussed and agreed with the suggestion to add the authority to the form

footer as is standard with SCAO forms. The committee added MCR 2.109 to the form footer.

The form was approved as revised.

STAFF NOTE: During typesetting, additional changes were made for grammar, style, and the application of standards.

Service Member's Civil Relief Act Citation

The committee discussed the suggestion to revise the citation to the *Service Member's Civil Relief Act* from "50 USC 521" to "50 USC App 521," on all affected forms. The committee agreed that any affected form should be revised when the forms are revised for substantive reasons.

STAFF NOTE: The affected forms are: CIA 01, CIA 02, DC 84, DC 85, DC 105, DC 105 SP, DC 105a, DC 105a SP, DC 106, MC 07, MC 07 SP, MC 10, MC 39. In addition, any translated versions of these forms will be corrected.

14. MC 10, Judgment Civil

The committee discussed a suggestion to include a line for statutory costs that are permitted under MCL 600.2441. Members agreed there is currently no field on the form to include these costs and the existing fields are inappropriate.

Members discussed adding a field on the current costs line, but there was not enough space, so they added a second line as follows: statutory \$_____ (See MCL 600.2441). Members also considered adding a list of available statutory costs but decided such a list was unnecessary because a person could look up the statute.

In addition, the committee corrected the citation to the *Service Member's Civil Relief Act* in the footer from "50 USC 521" to "50 USC App 521."

The form was approved as revised.

STAFF NOTE: During typesetting, additional changes were made for grammar, style, and the application of standards.

15. MC 49, Objection to Garnishment

The committee discussed a suggestion to require an objecting party to specify the law under which the party is objecting where the form states, "the funds or property are exempt (protected) from garnishment by law." Staff explained that suggestion came

from an attorney who thought this should be required so that the other party has sufficient information to respond.

Members remarked that normally the objecting party is unrepresented and likely would not know under which law to object. Moreover, the language of the form tracks the language of MCR 3.101(K)(2)(a). Members acknowledged that attorneys might want this information, but this concern is outweighed by the difficulty such a change would likely cause to unrepresented litigants.

Although not on the agenda, the committee also discussed the language, “There is no cost,” in the instructions. Staff explained that this language is incorrect because probate courts are required to collect a \$20.00 fee. MCL 600.880b states, “(1) Except as otherwise provided by law, after the commencement of a civil action or proceeding in the probate court, a party filing a motion, petition, account, objection, or claim shall pay a \$20.00 motion fee to the probate register.”

The committee changed the language from “There is no cost,” to “There is no cost for filing an objection except in probate court cases.”

The form was approved as revised.

16. MC 229, Motion, Affidavit, and Bench Warrant

The committee discussed the suggestion to modify the bench warrant section of the form to include the height, weight, hair color, and eye color of a respondent, if known.

The committee was advised the Criminal Forms Work Group had already discussed this same suggestion and had incorporated parts of CC 376 and FOC 14 onto the form. The committee was provided a copy of the criminal work group’s amended form for review.

Members agreed with the criminal work group’s conclusion, except for the driver’s license number field. Members stated that, although not required for entry onto LEIN, the field is useful for identifying a defendant. Therefore, members added the field back onto the form. The following was approved:

Full name (type or print)					Date of birth*
Address	City	State	Zip		DLN
Sex*	Eye color	Hair color	Height	Weight	

*These items **must** be filled in for the police/sheriff to enter on LEIN; the other items are not required but are helpful.

The form was approved as revised.

17. MC 286, Order Requesting Prisoner Be Allowed to Participate in Court Proceedings

The committee discussed the suggestion to revise this form to allow for videoconferencing under MCR 2.004. The rule was amended in 2015 to allow prisoners to participate in court proceedings by videoconference. The committee discussed a stylistic change to combine the caption for prisoner name and offender number into a single field. Members remarked that checkbox options should be added for the court to indicate what type of communication is desired—noncollect call or video conference.

In conclusion, members changed the language of item 1 as follows:

The Department of Corrections is requested to allow _____ ,
Prisoner name and offender no.
to participate with the court or its designee by way of

noncollect and unmonitored telephone call

video conference

on _____ at _____ to discuss _____, a proceeding in which
Date Time

he/she is a party.

The form was approved as revised.

STAFF NOTE: The proposed changes to this form are being held because of the proposed court rule changes described in ADM File No. 2013-18, which was published for comment on March 23, 2016.

18. MC 304, Order for Alternative Service

The committee discussed the suggestion that tacking be removed from MC 304 because tacking may not give actual notice of the proceedings if the defendant has moved. Tacking is an option on the form because MCR 2.105(I) states that the court may order service of process in any manner reasonably calculated to give the defendant actual notice of the proceedings and an opportunity to be heard. The committee reviewed MCR 2.105(I) and discussed the comments opposing the suggestion. Members agreed that tacking should remain an option on the form because it is a viable option for alternative service under MCR 2.105(I).

The form was not changed.

19. MC 390, Ex Parte and Order to Renew Civil Judgment

The committee discussed the suggestion to modify item 3 of MC 390 to state, “the last voluntary payment,” instead of “A payment in the amount of ____” This suggestion arose out of a dispute as to whether or not an involuntary payment, specifically a garnishment payment, extends a judgment.

Members discussed the case law on this issue and concluded that it did not specifically address payment by way of garnishment. One member suggested adding an option for the court to schedule the matter for hearing because some judges prefer to hear a request to renew a judgment. The committee also considered removing item 3 in relation to this particular suggestion.

However, staff pointed out that removing item 3 would restrict the use of the form. Judgment creditors would no longer have an option to indicate that the judgment was extended as a result of a payment received. The committee assented that removal of item 3 would restrict the use of the form, and it should not be deleted.

After further discussion, the committee added that an option to schedule the matter for hearing would be used by some judges and amended item 5 as follows: The motion is granted. denied. set for hearing.

Members also discussed whether or not a standard Notice of Hearing section was needed or if the checkbox alone would suffice. Members agreed that the checkbox would suffice because a notice of hearing would be sent separately.
The form was approved as revised.

STAFF NOTE: During typesetting, additional changes were made for grammar, style, and the application of standards.

20. New Form, Referral to Chief Judge After Disqualification Under MCR 2.003

The committee discussed the suggestion to create a form to allow a judge to refer a motion for disqualification to the chief judge or to SCAO for assignment to another judge for de novo review under MCR 2.003(D)(3). Staff explained that this form would apply in a situation where a motion to disqualify is filed, the assigned judge declines to disqualify himself or herself, and then the party requests de novo review of the decision.

To avoid the need to create a new form, staff inquired if an option could be added to MC 264, Order of Disqualification/Reassignment. The committee responded that this could inadvertently encourage referrals. Instead, members asked SCAO to draft a form for

discussion in 2017.

21. New Form, Garnishee Default

The committee discussed the suggestion to create a new default form under MCL 600.4012(6)-(10) because the current default forms are not suited for garnishee defaults.

Staff advised against creating this form until there are court rules for garnishee defaults. Members agreed that a new default form should only be created after a clear practice has been established. Members discussed the possibility of modified court rules, but agreed that it may be premature to amend the court rules because the statutory amendments MCL 600.4012 have only been effective for five months.

The form will not be created.

Circuit Court Session

22. Minor Changes

CC 375, Petition for Personal Protection Order

Members discussed the suggestion to change item 1 from “husband and wife” to “spouses” to accommodate same-sex relationships and track the statutory language in MCL 600.2950(1).

Members agreed the language should be changed, but expressed uncertainty about using the term “spouses” without proper context. To be more precise, the committee replaced “husband and wife” with “married to each other.”

The form was approved as revised.

STAFF NOTE: During typesetting, additional changes were made for grammar, style, and for the application of standards.

23. CC 79, Claim of Appeal on Application for Concealed Weapon License; CC 80, Order Following Appeal on Application for Concealed Weapon License

The committee discussed the suggestion to remove item 1d, which is the option to appeal a suspension and revocation of a concealed pistol license under MCL 28.428. The reason for the request is that under MCL 28.428(5) a suspended or revoked license can be renewed by applying for a renewal license under MCL 28.4251. If the renewal license is subsequently denied, the denial can be appealed under MCL 28.425d.

The committee agreed that the current option 1d is inaccurate. However, members pointed out that, under MCL 28.428(2), if an individual is charged with a crime and the individual's concealed pistol license is suspended or revoked, the individual can notify the county clerk to automatically reinstate the license if the individual is acquitted or the charge is dismissed. In that instance, the individual could check option 1d to appeal a county clerk's refusal to reinstate the license automatically.

Members discussed if a county clerk's failure to reinstate a license after acquittal or dismissal would be directly appealable under MCL 28.428(2) or whether failing to reinstate would be considered a failure to issue a license and, subsequently, appealable under MCL 28.425d(1). Staff remarked that if a failure to reinstate is considered a failure to issue a license under MCL 28.425d(1), then item 1d is not needed because appeals for failure to issue a license are addressed by item 1c. The committee did not arrive at any conclusion regarding the differing interpretations. The committee decided to retain item 1d, but revised it to clearly delineate MCL 28.428(2) from appeals under MCL 28.425d(1) as follows: failure of county clerk to reinstate my license under MCL 28.428(2).

The committee also discussed the suggestion to change the "County Clerk" field in the masthead to "Appellee" because MCL 28.425d permits appeals of law enforcement agency and county clerks decisions. Members remarked the county clerk will be the appellee in the majority of appeals and considered using "County Clerk/Appellee" in the field. However, the committee decided that this phrasing may offer more confusion than clarity because the language insinuates that the county clerk and appellee are the same. The committee also considered "County Clerk or Appellee" but decided against this because it insinuates that the appellant can choose. Ultimately, the committee decided to replace "County Clerk" with "Appellee" on both CC 79 and CC 80.

The forms were approved as revised.

STAFF NOTE: During typesetting, the title of these forms were modified to CC 79, Claim of Appeal on Application for Concealed Pistol License and CC 80, Order Following Appeal on Application for Concealed Pistol License to more accurately track the statutory language.

Additional changes were made for grammar, style, and the application of standards.

24. New Form, Motion and Order to Restore Gun Rights Under MCL 28.424

The committee discussed the suggestion to create a motion and order for use under MCL 28.424. With the abolition of county gun boards pursuant to 2015 PA 3, restoration of gun rights cases are now under the jurisdiction of the circuit court. Therefore, forms previously used for restoration of gun rights became unusable.

Although there is widespread support for creating a replacement petition and order, the Michigan State Police noted that restoration of an applicant's gun rights under state law does not necessarily restore an applicant's gun rights under federal law. Members decided that forms should be made available anyway and asked the SCAO to draft them for discussion in 2017.

**25. CC 375, Petition for Personal Protection Order
CC 376, Personal Protection Order**

The committee discussed a suggestion to add attorney information to the masthead of these forms.

Staff pointed out that CC 375 was initially developed to be a one-page form and questioned if petitioners ever file a one-page petition. Members remarked it is very rare for a petition for a personal protection order to be one page. In light of this, staff recommended expanding the petition to two pages to accommodate attorney information and provide petitioners more writing space if the suggestion for attorney information was adopted.

Members agreed that this change to CC 375 would be helpful. Members added attorney information to the masthead. Item 4 was moved to the second page for writing space. Items 4 through 7 were renumbered accordingly.

The committee also changed the masthead standard for personal protection forms to include attorney information.

The forms were approved as revised.

STAFF NOTE: Because the committee's recommended change to CC 375 will affect 20 other personal protection forms and 8 foreign translations, SCAO staff were concerned about the unintended consequences of the change. After further analysis, staff concluded that a field for the attorney name, address, telephone number, and bar number pursuant to MCR 2.113(C)(1) should not be added to the forms. The reasons for this conclusion are threefold. First, the forms will become two pages and this particular result has unintended consequences that were not published for comment. Second, based on an analysis of available data, less than 2% of all personal protection cases are filed by attorneys on behalf of petitioners. Third, the modification would require unnecessary translation of eight forms.

26. New Form, Ex Parte Motion and Order to Extend Personal Protection Order

The committee discussed the suggestion to create a single form containing a combined ex

parte motion and order to extend a personal protection order. Members remarked that separating the process for extending from modifying or terminating a personal protection order makes sense because the procedures are very different. A single form for the ex parte motion and order to extend a personal protection would clarify the process of extension. Members recommended that the SCAO draft the form for presentation in 2017. Staff commented that the form should include an option to schedule the motion to extend for hearing. Members were uncertain if this option was necessary, but decided it should be included in the discussion in 2017.

27. New Form, Notice of Right to Appellate Review and Request for Appointment of Attorney for Criminal Contempt in a Personal Protection Order

The committee discussed the suggestion to create a notice of right to appellate review and request for appointment of attorney for criminal contempt in personal protection orders. Although it has been suggested that CC 265 Notice of Right to Appellate Review and Request for Appointment of Attorney could be used, that form does not provide any options for use with contempt in personal protection cases, and revising it to accommodate personal protection would make CC 265 unnecessarily complicated for criminal appeals.

Members responded that advice regarding the right to an appellate attorney should be given to a defendant during the contempt proceeding and that there is no need for an approved SCAO form.

Respectfully submitted,

Matthew L. Walker
Forms and Manuals Analyst