

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

The Committee has adopted the following amended and deleted model civil jury instructions effective May 6, 2016.

ADOPTED

In June 2015, the Committee adopted amended jury instructions and deleted other jury instructions in order to reflect the decision in *In re Sanders*, 495 Mich 394 (2014), which held that in the adjudicative phase of child protective proceedings, there must be a specific adjudication of each parent's fitness. The Committee took that action while the comment period was pending. MCR 2.512(D)(1). The comment period has expired and the Committee has adopted additional revisions so the instructions now include guardians, nonparent adults, and other custodians.

[AMENDED] M Civ JI 97.49 Verdict

[You are to render separate verdicts as to each parent, guardian, nonparent adult, or other custodian.]** There are only two possible verdicts in this case:

[As to _____ (mother's name)]**

- (1) One or more of the statutory grounds alleged in the petition have been proven.
- (2) None of the statutory grounds alleged in the petition have been proven.

[As to _____ (father's name)]**

- (1) One or more of the statutory grounds alleged in the petition have been proven.
- (2) None of the statutory grounds alleged in the petition have been proven.

[As to _____ (the guardian, nonparent adult, or other custodian's name)]**

- (1) One or more of the statutory grounds alleged in the petition have been proven.
- (2) None of the statutory grounds alleged in the petition have been proven.

These possible verdicts are set forth in the verdict form(s) which you will receive. Only one of the possible verdicts may be returned by you [as to each child]* [and] [as to each parent, guardian, nonparent adult, or other custodian]**. When at least five of you have agreed

upon one verdict [as to each child]* [and] [as to each parent, guardian, nonparent adult, or other custodian],** your foreperson should mark that verdict.

Note on Use

* Use this phrase if jurisdiction is being sought for more than one child.

** Use this phrase if the adjudication concerns the fitness of both parents as envisioned by *In re Sanders*, 495 Mich 394 (2014). If the case does not involve the fitness of a guardian, nonparent adult or other custodian, reference to such a person should be eliminated. In cases with multiple respondent fathers, add two possible verdicts for each.

History

M Civ JI 97.49 was added March 2005. Amended June 2015. Amended May 2016.

[AMENDED] M Civ JI 97.60 Form of Verdict: Statutory Grounds Alleged

We the jury find that:

As to Mother*

None of the statutory grounds alleged in the petition concerning [*child's name*] has been proven.

OR

One or more of the following statutory grounds alleged in the petition concerning [*child's name*] has/have been proven:

- [*Name of mother*], when able to do so, neglected or refused to provide proper or necessary support, education, medical, surgical, or other care necessary for [*name of child*]'s health or morals.
- [*Name of child*] is subject to a substantial risk of harm to [his / her] mental well-being.
- [*Name of child*] has been abandoned by [*name of mother*].
- [*Name of child*] is without proper custody or guardianship.
- [*Name of child*]'s home or environment, by reason of neglect, cruelty, drunkenness, criminality, or depravity on the part of [*name of mother*], is an unfit place for [*name of child*] to live in.

- [*Name of child*]'s mother has substantially failed, without good cause, to comply with a limited guardianship placement plan regarding [*name of child*].
- [*Name of child*]'s mother has substantially failed, without good cause, to comply with a court-structured plan regarding [*name of child*].
- [*Name of child*] has a guardian appointed for [him / her] under the Michigan Estates and Protected Individuals Code, and
 - (i) [*Name of child*]'s mother, having the ability to support or assist in supporting [*name of child*], has failed or neglected, without good cause, to provide regular and substantial support for [*name of child*] for a period of two years or more before the filing of the petition, or if a support order has been entered, has failed to substantially comply with the order for a period of two years or more before the filing of the petition, and
 - (ii) [*Name of child*]'s mother, having the ability to visit, contact or communicate with [*name of child*], has regularly and substantially failed or neglected, without good cause, to do so for a period of two years or more before the filing of the petition.

As to Father*

- None of the statutory grounds alleged in the petition concerning [*child's name*] has been proven.

OR

One or more of the following statutory grounds alleged in the petition concerning [*child's name*] has/have been proven:

- [*Name of father*], when able to do so, neglected or refused to provide proper or necessary support, education, medical, surgical, or other care necessary for [name of child]'s health or morals.
- [*Name of child*] is subject to a substantial risk of harm to [his / her] mental well-being.
- [*Name of child*] has been abandoned by [*name of father*].
- [*Name of child*] is without proper custody or guardianship.
- [*Name of child*]'s home or environment, by reason of neglect, cruelty, drunkenness, criminality, or depravity on the part of [name of father], is an unfit place for [*name of child*] to live in.
- [*Name of child*]'s father has substantially failed, without good cause, to comply with a limited guardianship placement plan regarding [*name of child*].

- [*Name of child*]'s father has substantially failed, without good cause, to comply with a court-structured plan regarding [*name of child*].
- [*Name of child*] has a guardian appointed for [him / her] under the Michigan Estates and Protected Individuals Code and
 - (i) [*Name of child*]'s father, having the ability to support or assist in supporting [*name of child*], has failed or neglected, without good cause, to provide regular and substantial support for [*name of child*] for a period of two years or more before the filing of the petition, or if a support order has been entered, has failed to substantially comply with the order for a period of two years or more before the filing of the petition, and
 - (ii) [*Name of child*]'s father, having the ability to visit, contact or communicate with [*name of child*], has regularly and substantially failed or neglected, without good cause, to do so for a period of two years or more before the filing of the petition.

As to the Guardian, Nonparent Adult, or Other Custodian:

- None of the statutory grounds alleged in the petition concerning [*child's name*] has been proven.

OR

One or more of the following statutory grounds alleged in the petition concerning [*child's name*] has/have been proven:

- [*Name of guardian, nonparent adult or other custodian*], when able to do so, neglected or refused to provide proper or necessary support, education, medical, surgical, or other care necessary for [*name of child*]'s health or morals.
- [*Name of child*] is subject to a substantial risk of harm to [his / her] mental well-being.
- [*Name of child*] has been abandoned by [*name of guardian, nonparent adult or other custodian*].
- [*Name of child*] is without proper custody or guardianship.
- [*Name of child*]'s home or environment, by reason of neglect, cruelty, drunkenness, criminality, or depravity on the part of [*name of guardian, nonparent adult or other custodian*], is an unfit place for [*name of child*] to live in.

Note on Use

* Use this format if the adjudication concerns the fitness of both parents as envisioned by *In re Sanders*, 495 Mich 394 (2014). In cases with multiple respondent fathers, add two possible verdicts for each. Use only those statutory grounds that are applicable.

In the Committee's opinion, special verdict forms are not prohibited.

History

Added March 2005. Amended June 2015. Amended May 2016.

[DELETED] M Civ JI 97.61 Form of Verdict: One Statutory Ground Alleged [*Instruction Deleted*]

~~We, the jury, find that:~~

~~The statutory ground alleged in the petition concerning (child's name) has been proven.~~

~~The statutory ground alleged in the petition concerning (child's name) has not been proven.~~

Note on Use

In the Committee's opinion, special verdict forms are not prohibited.

History

Added March 2005. Deleted June 2015.