



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

September 1, 2009

TO: Michigan Court Forms Committee (Family Division of Circuit Court Section)

FROM: Traci Gentilozzi, Forms and Manuals Analyst

RE: Agenda and Materials for **September 17, 2009 Meeting**

PLACE: **Michigan Hall of Justice**, 925 West Ottawa, downtown Lansing (map enclosed)

Below is the agenda for the September 17 meeting of the Michigan Court Forms Committee – Family Division of Circuit Court Section. The meeting starts at 9:30 a.m. and ends at 3:30 p.m. **Luncheon reservations have been made for you; if you cannot attend, please contact me at least two days before the meeting.** Please note that our office is located at 925 West Ottawa. A map is provided.

Although documentation is provided with the agenda, it would be helpful to bring a copy of the Michigan Court Rules and any other resources you believe are necessary.

A. General Discussion

1. Military/Nonmilitary Affidavit Language

Last year the committee discussed whether certain juvenile and adoptions forms should be revised to include a provision that prevents courts from proceeding in matters against members of the military who are deployed until certain safeguards are met, such as a military/nonmilitary affidavit. An excerpt of the 2008 meeting minutes is provided. The committee agreed that JC 04b, Petition (Child Protective Proceedings), should include the affidavit to raise awareness of the courts, so they can comply with the Servicemembers' Civil Relief Act. The committee agreed to the following language on JC 04b: "☐ Military/nonmilitary affidavit is attached." Members also discussed adding the language to other adoption, custody, and guardianship petitions. The committee asked the SCAO to research which forms might be affected and to present the forms at the 2009 committee meeting. Accordingly, the SCAO suggests the following petitions

be reviewed: JC 98, JC 99, PCA 301, PCA 301a, PCA 310, PCA 313, PCA 327, PCA 335, and PCA 349.

2. Signing and Authentication of Papers

The committee is asked to decide whether certain juvenile forms need to be verified. The Circuit and District Section of the Michigan Court Forms Committee recently removed the declaration language from all circuit and district forms that do not require verification under MCR 2.114(B).

Certain juvenile forms currently include declaration language that says either, “I declare that the statements in this petition are true to the best of my information, knowledge, and belief” or “I declare that this [name of document] has been examined by me and that its contents are true to the best of my information, knowledge, and belief.”

Subchapter 3.900 of the Michigan Court Rules governs juvenile proceedings. MCR 3.901 states: “The rules in this subchapter, in subchapter 1.100 and in MCR 5.113, govern practice and procedure in the family division of the circuit court in all cases filed under the Juvenile Code.” While MCR 5.113 governs the form and filing of papers, it does not provide for the verification/authentication of papers. The authentication/verification of papers is addressed in both MCR 5.114(B) and MCR 2.114(B); however, neither of these rules is incorporated by reference into the juvenile proceedings subchapter. Meanwhile, MCL 712A.11 provides that juvenile petitions – namely JC 04a and JC 04b – “shall be verified” (emphasis added).

The forms that currently include a declaration statement are: JC 01, JC 02, JC 04a, JC 04b, JC 05a, JC 05b, JC 15, JC 16, JC 18, JC 33, JC 34, JC 36, JC 44, JC 46, JC 52, JC 54, and JC 81. Based on the court rules and statute, it appears the declaration statement is not required on any of these forms except the petitions, JC 04a and JC 04b. Should the declaration language remain on the forms?

Likewise, it is questioned whether the proofs of service on certain juvenile forms should include the following declaration statement: “I declare that this proof of service has been examined by me and that its contents are true to the best of my information, knowledge, and belief” (or something similar). The forms that currently contain this declaration statement are JC 12a and JC 12b, Proof of Service/Nonservice. If the declaration language remains on these two forms, should it also be added to the proofs of service on the summons forms, JC 20 and JC 21?

B. Adoption Forms

1. PCA 301, Petition for Adoption

It has been suggested that a checkbox be inserted before item 14. It is asserted that the form is confusing because there is a checkbox in front of item 15 but not item 14.

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

A probate court caseworker has proposed several alternatives for revising the order. See the attached e-mail.

C. Juvenile and Child Protective Forms

1. JC 20, Summons: Order to Appear (Delinquency Proceedings)/(Personal Protection Proceedings)
JC 21, Summons: Order to Appear (Child Protective Proceedings)

The committee is asked to discuss whether the newly-designed proof of service fee box that has been applied to all circuit, district, and friend of the court forms should be applied to these two forms. The redesigned fee box provides a field for an incorrect address fee, which was requested by the Michigan Court Officer, Deputy Sheriff and Process Servers Association. Form MC 230 is attached as an example. An excerpt from the minutes of the 2009 Circuit and District Section committee meeting is provided.

2. JC 40, Order for Contempt of Court

It has been suggested this form would be more efficient if space is included for the specific findings/sanctions in the case. It is also asserted the form should be modified to allow "extra case-specific" information, and that language regarding jail time held in abeyance and used at caseworker discretion should be included to help those who prepare court orders.

3. JC 59, Order of Adjudication (Delinquency Proceedings)

A request has been made to include information on licensing sanctions underneath the abstracting information, similar to JC 14a and JC 14b. It is asserted that, because all abstractable offenses should be abstracted at adjudication (with the exception of drug crimes), the sanctions information is needed for it to be applied against the juvenile's driving record.

4. JC 66, Application to Set Aside Adjudication and Order

The terms “order of disposition” and “disposition” should be replaced with “adjudication” or “record of adjudication,” as indicated, to reflect the language of the statute, MCL 712A.18e.

Also, the SCAO has been notified the address for the Michigan State Police Criminal Records Division has changed again and should be revised on the instructions page. The correct address is: P.O. Box 30634, Lansing, Michigan 48913.

5. New Form, Petition and Order for Court-Appointed Attorney

A probate judge has requested a form be developed to evaluate indigency for purposes of appointing counsel in delinquency cases and protective proceedings. It is asserted the current form for appointing attorneys in criminal cases, MC 222, is not usable in family division cases. A draft is provided.

6. New Form, Contact/Location Information of Relatives

It has been suggested a form be developed to provide contact/location information for a child’s/children’s relatives. While the Department of Human Services (DHS) is required to collect this information under MCL 722.954a, it is asserted that DHS doesn’t always inform the court which relatives have been considered for placement. Therefore, it is claimed that judges sometimes order care to DHS without complete knowledge of who DHS has reviewed as a potential placement for the child. It is asserted an SCAO-approved form makes practical sense because the court is the entity that (1) enters the order to remove a child from the home and (2) oversees where a child is placed. A draft is provided.

7. JC 05b, Order to Take Child(ren) into Protective Custody (Child Protective Proceedings)

JC 11a, Order after Preliminary Hearing (Child Protective Proceedings)

JC 19, Order Following Dispositional Review/Permanency Planning Hearing (Child Protective Proceedings)

JC 63, Order Following Hearing To Terminate Parental Rights (Child Protective Proceedings)

JC 75, Order Following Emergency Removal Hearing (Child Protective Proceedings)

JC 76, Order After Post-Termination Review/Permanency Planning Hearing (Child Protective Proceedings)

JC 91, Order Appointing Juvenile Guardian

JC 92, Acceptance of Appointment (Juvenile Guardian)

JC 93, Letters of Juvenile Guardianship

JC 94, Annual Report of Juvenile Guardian on Condition of Child
JC 95, Order Appointing Person to Investigate Juvenile Guardianship
JC 96, Report after Investigation of Juvenile Guardianship
JC 97, Order Following Investigation and Report of Juvenile Guardianship
JC 98, Petition to Terminate Appointment of Juvenile Guardian, Notice of Hearing, and Order for Investigation
JC 99, Petition to Revoke Juvenile Guardianship, Notice of Hearing, and Order for Investigation
JC 100, Order Following Hearing on Petition to Terminate Appointment of Juvenile Guardian
JC 101, Order Regarding Revocation of Juvenile Guardianship

These forms were recently revised and developed to comply with Public Act 199, 200, and 203 of 2008, and to comply with new and amended court rules relating to these laws. The committee is asked to review the forms and discuss any items of concern.

Regarding JC 11a, it is suggested that line 23 be revised to reflect similar provisions on JC 19 (line 20) and JC 75 (line 16).

Attachments

cc: Steven D. Capps
Anne Boomer
Sally LaCross
Amy Byrd
Jennifer Warner
Judicial Information Systems
Regional Administrators