



Michigan Supreme Court
State Court Administrative Office
Trial Court Services Division
Michigan Hall of Justice
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September 24, 2008

MICHIGAN COURT FORMS COMMITTEE
Family Division Section
Minutes of September 18, 2008 Meeting

Present: Hon. Judy Hartsfield, 3rd Circuit Court
Pamela Jarvis, Probate Register, Barry County Probate Court
Johanna O'Grady-Ward, 3rd Circuit Court
David C. Rauch, Court Administrator, Charlevoix County Probate Court
Hon. Fred Mulhauser, Emmet/Charlevoix County Probate Court
Hon. Karen Tighe, Bay County Probate Court
Susan Burdick, 42nd Circuit Court (for Linda S. Weiss)
Amy L. Byrd, State Court Administrative Office (staff)
Traci R. Gentilozzi, State Court Administrative Office (staff)
Jennifer Warner, State Court Administrative Office (staff)
Dawn Childress, State Court Administrative Office (staff)

Absent: Hon. R. Terry Maltby, Sanilac County Probate Court
Sheryl Thompson, Genesee County DHS

Meeting called to order at 9:30 a.m.

A. General Court Forms

1. MC 28, Notice to Prior Court of Proceedings Affecting Minor(s)

The SCAO advised the committee that the standard language for the certificate of mailing was applied to this form based on a general agreement by the committee in 2008 to revise all certificates of mailing. The SCAO was asked to identify and revise forms as appropriate; however, the certificate on this form should not have been revised. Before changing the certificate of mailing to its previous format, the committee was asked whether MCR 3.205 supersedes MCL 712A.3a pursuant to MCR 1.104, or whether only MCR 3.205 applies. The committee decided that only MCR 3.205 applies and notice should only be sent to the court.

The committee changed the "Certificate of Mailing" at the bottom of the form to

“Certificate of Service” because sometimes a copy of the notice is personally delivered rather than mailed. The committee revised the language in the “Certificate of Service” as follows: “I certify that on this date I served a copy of this notice on the prior court by
 first-class mail. personal delivery.”

The form was approved as revised.

2. MC 316, Change of Venue

The committee considered a suggestion to adapt this form for use in family division cases. The committee concluded the form should not be modified because JC 29 and PC 608 can be used.

The form was unchanged.

3. PC 51, Petition to Change Name

As requested, the committee corrected the address for the Michigan State Police Criminal Records Division on the special instructions.

Because the Michigan State Police has pointed out that it does not want petitions delivered personally to its office, the committee deleted “or deliver” from item 4 on the special instructions.

A committee member raised a concern about the reference in the special instructions to fingerprint cards, and asked whether they are still needed in light of scanning. An SCAO staff member explained the Michigan State Police has indicated that fingerprint cards still need to be used for name changes. It was explained that, while most Michigan State Police posts now scan fingerprints, these scanned prints can only be associated with specific police reports. The Michigan State Police has indicated that the central office has no means of tracking or pulling scanned fingerprints in order to run a criminal history report for the purpose of a name change. Therefore, the committee was advised that fingerprint cards must still be used.

Staff Note: Based on Supreme Court style rules, the word “Under” at the beginning of paragraph two in the special instructions was changed to “Pursuant to.”

The form was approved as revised.

4. PC 52, Order Following Hearing on Petition to Change Name

The committee considered a number of suggestions to revise this form, the first of which was to revise the form to be used under both statutory law and common law. The committee denied the request to add information to this form, reasoning that it would promote a way to circumvent the statutory requirements that are set forth in PC 52.

The committee also considered a request to create a separate order for name change by

common law. The committee declined the request, indicating that forms should conform to statutory law and that a common-law name change doesn't need a court order.

The committee also added a checkbox in front of item 12 because the petition may be dismissed.

The committee revised the "Note to Clerk" at the end of the form to reflect that the Central Records Division of the Michigan State Police is now the Criminal Records Division.

The committee reviewed the last bullet under "Note to Clerk" for accuracy. The committee removed the phrase "or until January 1, 1998, the probate court, or has been discharged from the jurisdiction of that court within the immediately preceding 2 years" because it is no longer accurate.

Staff Note: Based on Supreme Court style rules, the word "Under" in the "Note to Clerk" was changed to "Pursuant to."

The form was approved as revised.

B. Adoption Forms

5. **PCA 301, Petition for Adoption**
PCA 301a, Petition for Direct Placement Adoption
PCA 330, Statement of Parent/Guardian Transferring Physical Custody of Child for Adoption
PCA 340, Statement of Identifying Information

The committee addressed a concern about the propriety of providing a signature line on these forms for "person assisting petitioner" or "agency." It was argued that this signature line encourages the unauthorized practice of law in contravention of MCL 600.916. The committee disagreed with this conclusion, and decided a signature line for "person assisting petitioner" or "agency" is helpful to the court because it identifies the person who assisted the petitioner in the event there are questions or concerns. Committee members did not think this constitutes the unauthorized practice of law.

The forms were unchanged.

6. **PCA 323, Advice of Rights After Order Terminating Parental Rights**

The committee corrected the citation on the foot of the form from MCL 710.2 to MCL 710.27.

The form was approved as revised.

C. Juvenile and Child Protective Forms

7. Servicemembers' Civil Relief Act

The committee discussed a suggestion that certain forms used pursuant to the Juvenile Code should be modified to include provisions that prevent courts from moving ahead in matters against servicemembers who are deployed until certain safeguards are met, such as submission of a military/nonmilitary affidavit, the appointment of counsel for an absent respondent who appears to be in the military, and the staying of proceedings when it appears a respondent is in the military.

The committee agreed certain forms should be modified to raise the awareness of the courts so they can comply with the act. The committee revised JC 04b, Petition (Child Protective Proceedings), to include a checkbox in item 2 that says, " Military/nonmilitary affidavit attached." The committee also recommended the SCAO issue an Administrative Memorandum setting forth the military/nonmilitary affidavit requirements of the Servicemembers' Civil Relief Act.

The committee discussed adding the affidavit language to other petitions, including those for adoption, custody, and guardianships and asked the SCAO to determine whether the " Military/nonmilitary affidavit attached" language should be added to these forms and to advise the committee accordingly.

The committee decided that JC 11a, Order After Preliminary Hearing (Child Protective Proceedings), should include the affidavit language. However, SCAO staff suggested the change to this form be held because other changes will be made to comply with 2008 PA 199, pending new court rules. The committee agreed. See agenda item 10 for details.

Form JC 04b was approved as revised. See also agenda item 8 for other changes to JC 04b.

8. JC 04b, Petition (Child Protective Proceedings)

The committee discussed a request to add space for the Michigan Department of Human Services to list the reasonable efforts that have been made. Rather than listing reasonable efforts and making this a two-page form, the committee added an instruction in item 2 that says, "See attached sheet for allegations, the reasons why it is contrary to the welfare of the child(ren) for the child(ren) to remain in the home, and the reasonable efforts made to prevent the removal of the child(ren)." To make room for this additional language, the committee deleted item 1e.

SCAO staff suggested the Administrative Memorandum issued by the SCAO regarding the Servicemembers' Civil Relief Act be cited at the bottom of the form. The committee agreed and the cite will be added when the memo is issued. See agenda item 7 for details.

The form was approved as revised.

9. **JC 05a, Order to Apprehend and Detain**

The committee corrected the citation in item 3(c) from MCR 712A.18 to MCL 712A.18.

Staff Note: Based on Supreme Court style rules, the word “under” in item 3f was changed to “pursuant to.”

The form was approved as revised.

10. **JC 11a, Order After Preliminary Hearing (Child Protective Proceedings)**
JC 19, Order Following Dispositional Review/Permanency Planning Hearing (Child Protective Proceedings)
JC 63, Order Terminating 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)

SCAO staff informed the committee that these forms are affected by the passage of Public Acts 199, 200, and 203, effective July 11, 2008. Specifically, JC 11a, JC 63, and JC 75 are affected by 2008 PA 199, JC 19 is affected by 2008 PA 200, and JC 76 is affected by 2008 PA 203. The SCAO indicated that some changes could be approved now because the statutory provisions are clear, but much of the procedure for these cases will need to be prescribed by new and amended court rules. The committee was informed that court rules will be adopted regarding the new laws, but the rules will likely not be in place before February or March 2009. Therefore, the committee was advised any revisions to these forms will be made internally once the court rules are adopted and the committee will be given an opportunity to review the forms in the spring 2009. The committee asked that a meeting be scheduled at that time to discuss the potential form revisions and the SCAO agreed. See agenda item 7 for more information relating to JC 11a.

Other questions were raised regarding JC 11a: (1) Is it necessary to provide checkboxes for “does not” and “should not”? (2) Should there be a date for the prior order in item 12a? (3) Should there be some indication that items 18 and 24 correspond to one another? The committee tabled these issues for discussion in the spring, after the court rules are adopted.

The forms were unchanged.

11. **JC 14a, Order of Disposition, In-Home (Delinquency Proceedings)**

The committee was asked whether item 5 should be an option and whether the form should be altered for situations when the court dismisses the petition at a pretrial hearing. The committee deleted the phrases, “An adjudication was held and” from the beginning of item 5, and “for the disposition” in item 3. Because additional space became available due to these changes, the committee added another line in item 5. The committee removed “adjudicated” from item 9 and added a citation to the minor in possession statute, MCL 436.1703, to the parenthetical.

Staff Note: Based on Supreme Court style rules, the word “under” in the item 9 parenthetical, in the note at the bottom of the form (“Upon disposition of a juvenile offense ...”), and in the item 10 parenthetical was changed to “pursuant to.”

The committee removed the note at the foot of the form to avoid misinterpretation by juveniles that fingerprints will be destroyed for all dismissals.

The form was approved as revised.

12. **JC 38, Order for Reimbursement
New Form, Order for Restitution**

The committee considered a suggestion to either include a section for restitution or to create a separate order for restitution. The committee denied the request, reasoning that restitution is often not a set amount and this information can be placed after “Other:” in item 4d. The committee also remarked that trial courts have different ways of dealing with restitution and reimbursement and should continue to handle the issue locally.

The form was unchanged.

13. **JC 44, Advice of Rights After Order Terminating Parental Rights**

The committee declined a request to include a space to indicate whose rights are being terminated. The committee explained this would create more paperwork, and the information on the back of the form already clearly establishes whose rights are being terminated.

The form was unchanged.

14. **JC 59, Order of Adjudication (Delinquency Proceedings)**

The committee discussed a suggestion to add a statement that the offense is abstractable based on the statute requiring it at adjudication. Therefore, the committee added the statement from item 9 of JC 25, without the word “adjudicated,” as follows: “The offense is abstractable to the Secretary of State (under 257.625[20][a], 257.732, 324.80131, 324.81134[12], 324.81135[7], 324.82157, or 333.7408a[12]). The juvenile’s driver’s license number is _____.” The language was added as checkbox option 7 on the form. The committee also added a citation to the minor in possession statute, MCL 436.1703, to the parenthetical in item 7. The remaining items on the form were renumbered accordingly.

Staff Note: Based on Supreme Court style rules, the word “under” in item 6, in the item 7 parenthetical, and in item 14c was changed to “pursuant to.”

The form was approved as revised.

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

The committee was asked whether the following language, which appears in the instructions for MC 227, Application to Set Aside Conviction, should be added to the instructions for this form: “Although an adjudication for a nontraffic offense reportable to the Secretary of State may be set aside by the court, as stated in MCL 257.732(22), the court cannot order the removal of the adjudication from the driving record.” The committee agreed this statement should be added to JC 66 and the change was made accordingly.

The committee updated the address for the Michigan State Police Criminal Records Division in item 7 because the office has relocated.

The committee revised the “Proof of Service” to no longer allow for personally delivering a copy of the application to the Attorney General or the Michigan State Police because these agencies have indicated they no longer want forms personally delivered. Accordingly, the committee deleted the checkboxes before “by first-class mail” and removed “ by leaving it at his/her office” and “ by leaving it at the department.”

Because personal delivery and first-class mail times vary, the committee changed the reference in item 5 from “7 days before the hearing” to “9 days before the hearing,” to allow sufficient mail or delivery time.

Staff Note: Based on Supreme Court style rules, the word “under” in item 8 was changed to “pursuant to,” the word “under” in the “Note” was changed to “by,” and the word “under” in item 3 of the order was changed to “pursuant to.”

The form was approved as revised.

16. JC 70, Judgment of Conviction (Designated Cases)

The committee discussed a suggestion to change the “Notice of Firearms Restriction” on this form because, although the current parenthetical was intended only as an example of certain kinds of firearms, it has caused some confusion. The committee changed the parenthetical as follows: “(as those terms are defined in federal and state law).”

The form was approved as revised.

17. JC 74, Order of Probation (Designated Case)

The committee discussed a suggestion to change the “Notice of Firearms Restriction” on this form because, although the current parenthetical was intended only as an example of certain kinds of firearms, it has caused some confusion. The committee changed the parenthetical as follows: “(as those terms are defined in federal and state law).”

The committee also corrected the citation on the second page from MCL 712A.18(1)(n) to MCL 712A.18(1)(m).

Staff Note: Based on Supreme Court style rules, the word “under” in the paragraph at the bottom of the form (“If sentence is delayed ...”) was changed to “by.”

The form was approved as revised.

18. JC 90, Order Correcting Identifying Information (Child Protective Proceedings)

Last year the committee approved a draft, with amendments, of this order to correct identifying information about children and their parents as this information appears in the legal file, and requested the draft be typeset for review in 2008.

The committee reviewed the amended draft, discussed the overall intent at length, and made the following additional changes.

- 1) Item 1 was changed to say, “In the matter of (Insert name as shown on petition.)”
- 2) Because the order can be used to correct both a child’s information and a parent’s information, item 2 was changed to: “The legal files and orders reflect that the child/parent is identified as:”
- 3) Because the order can be used to correct both a child’s information and a parent’s information, item 3 was changed to: “The child’s/parent’s name, date of birth, race, and sex is:
as shown on the birth certificate.
 other: _____.”
- 4) Two checkbox options were created for item 5 as follows:
“ a. Even though there are variances in the name, date of birth, race, and sex of the child described in item 2, the child is the same child as the child described in item 1.
 b. Even though there are variances in the name, date of birth, race, and sex of the parent described in item 2, the parent is the same parent.”
- 5) A new checkbox option 6 was added: “The corrected case name is _____.”
_____.”

The new form was approved as revised.

19. New Form, Settlement Offer and Notice of Acceptance

The committee declined a suggestion to develop a statewide form for recording plea agreements because most courts already have a local form for this purpose.

20. New Form, Motion for Prisoner Participation

The committee denied a request to develop a motion for prisoners to use to request participation in family division proceedings. The committee concluded such a form is unnecessary.

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Meeting adjourned at 12:15 p.m.

Respectfully submitted,

Traci R. Gentilozzi