



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

September 9, 2015

TO: Michigan Court Forms Committee, Child Protective Proceedings and Juvenile Guardianship Work Group

FROM: Matthew L. Walker, Forms and Manuals Analyst

RE: Agenda and Materials for **September 17, 2015 Meeting**

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

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Below is the agenda for the September 17, 2015 meeting of the Michigan Court Forms Committee, Child Protective Proceedings and Juvenile Guardianship Work Group. The meeting will start at 9:30 a.m. and end at approximately 3:30 p.m. Lunch reservations have been made for you. **If you cannot attend, please contact me at least two days before the meeting.** My phone number is (517) 373-2217 and e-mail is WalkerM@courts.mi.gov. Please note that our office is located at 925 W. Ottawa in Lansing. A map and directions are provided.

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

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**Note:** Page numbers are in the bottom right hand corner of the page.

## **MICHIGAN HALL OF JUSTICE**

### **Driving Directions, Visitor Parking Information, and Maps**

The Michigan Hall of Justice is located at 925 West Ottawa Street in Lansing—between Ottawa Street on the north, Allegan Street on the south, and Martin Luther King, Jr. Boulevard on the west. It is on the opposite end of the mall from the Capitol Building.

*All visitors to the Hall of Justice will enter through the front doors (facing the Capitol Building) and must pass through a security check. No weapons are permitted in the Hall of Justice.*

The conference center is located directly across from the main entrance on the first floor.

#### **From the North (Mackinac Island, Traverse City)**

- Take I-75 South to US-27 South (Lansing).
- Take I-69 (Flint)/US-127 (Lansing).
- Continue on US-127 South to I-496 West (DOWNTOWN LANSING) to Martin Luther King, Jr. (MLK) Boulevard North, Exit 5.
- Take MLK Boulevard north to Allegan Street and turn right. The Hall of Justice will be the large building on your left.

#### **From the Northeast (Flint, Saginaw, Bay City)**

- Take I-69 West to US-127 South to I-496 West (DOWNTOWN LANSING) to Martin Luther King, Jr. (MLK) Boulevard North, Exit 5.
- Take MLK Boulevard north to Allegan Street and turn right. The Hall of Justice will be the large building on your left.

#### **From Detroit**

- Take I-96 West to US-127 North.
- Take US-127 North to I-496 West (DOWNTOWN LANSING) to Martin Luther King, Jr. (MLK) Boulevard North, Exit 5.
- Take MLK Boulevard north to Allegan Street and turn right.
- The Hall of Justice will be the large building on your left.

#### **From the Southeast (Ann Arbor)**

- Take 23 North to I-96.
- Take I-96 West to US-127 North.
- Take US-127 North to I-496 West (DOWNTOWN LANSING) to Martin Luther King, Jr. (MLK) Boulevard North, Exit 5.
- Take MLK Boulevard north to Allegan Street and turn right. The Hall of Justice will be the large building on your left.

### **From the Southwest (Kalamazoo, Battle Creek)**

- Take I-94 East to I-69 North.
- Follow I-69 North to I-496 East (DOWNTOWN LANSING) to Martin Luther King, Jr. (MLK) Boulevard North, Exit 5.
- Take MLK Boulevard north to Allegan Street and turn right. The Hall of Justice will be the large building on your left.

### **From the West (Grand Rapids, Muskegon)**

- Take I-96 East to I-496 East (DOWNTOWN LANSING) to Martin Luther King, Jr. (MLK) Boulevard North, Exit 5.
- Take MLK Boulevard north to Allegan Street and turn right. The Hall of Justice will be the large building on your left.

## **Visitor Parking**

Parking for people visiting the Hall of Justice is located on Allegan Street (across from the north side of the Michigan Library and Historical Center (MLHC), southeast of the Hall of Justice, and east of the Veteran's Memorial Park). When entering the lot, turn left into the unattended lot where pushing a button will produce a parking entry ticket. Once the ticket is in hand, proceed and park in any available spot.

## **Paying for Parking**

- When leaving, visitors may make payment (the rate is \$1.00/hour, with a daily maximum of \$8.00) from their vehicles at the pay-in-lane machine as they exit the HOJ visitor lot or in person at the south entrance to the MLHC. Insert the entry ticket into the machine and your parking fee will be calculated.
- The machines cannot calculate a parking fee without an entry ticket. Customers that lose their entry ticket will be charged \$8.00 at the machine. To avoid the full charge, customers can go to the DMB Customer Service Center in the Hannah Building (first building east of the parking lot) on the first floor and they will be charged as if they arrived at 7:00 a.m.

## **Pay-in-Lane Accepts Only Credit Card Payments (No Cash!)**

The visitor parking lot pay-in-lane machines have been converted to credit card payment only. Visa, MasterCard and Discover will be accepted (and pre-purchased vouchers).

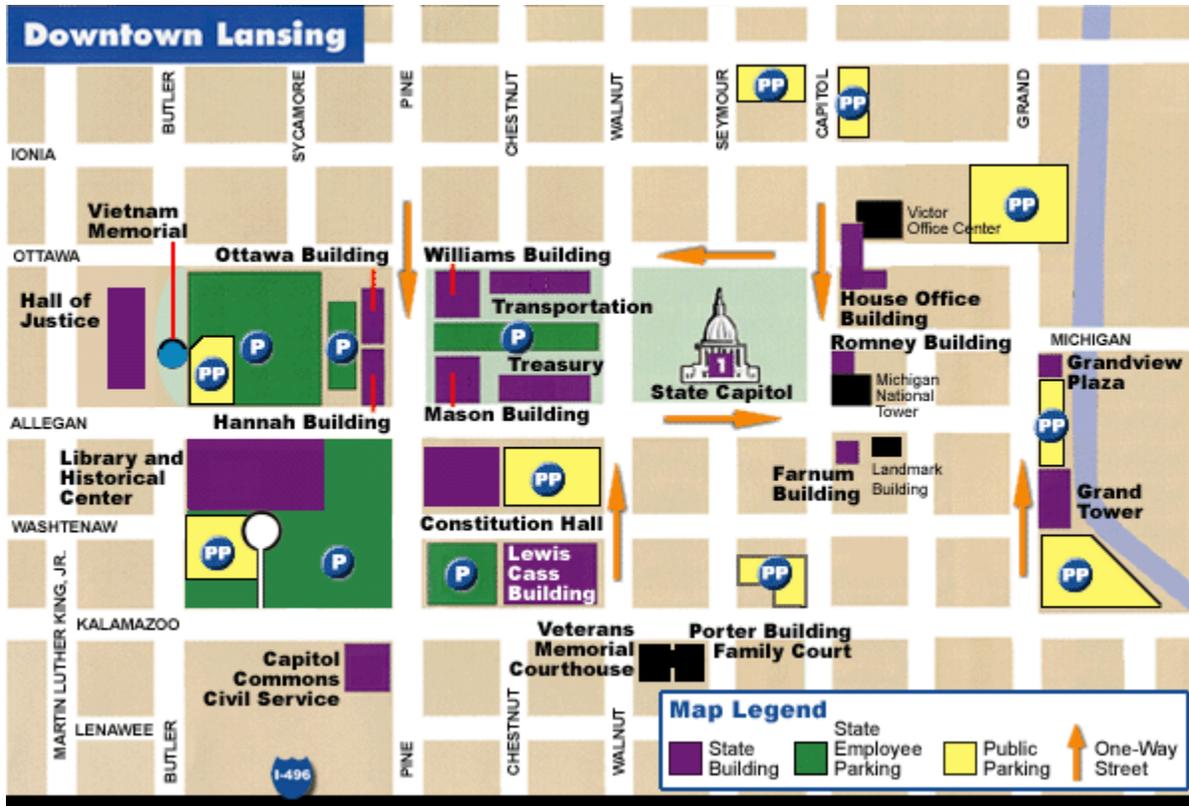
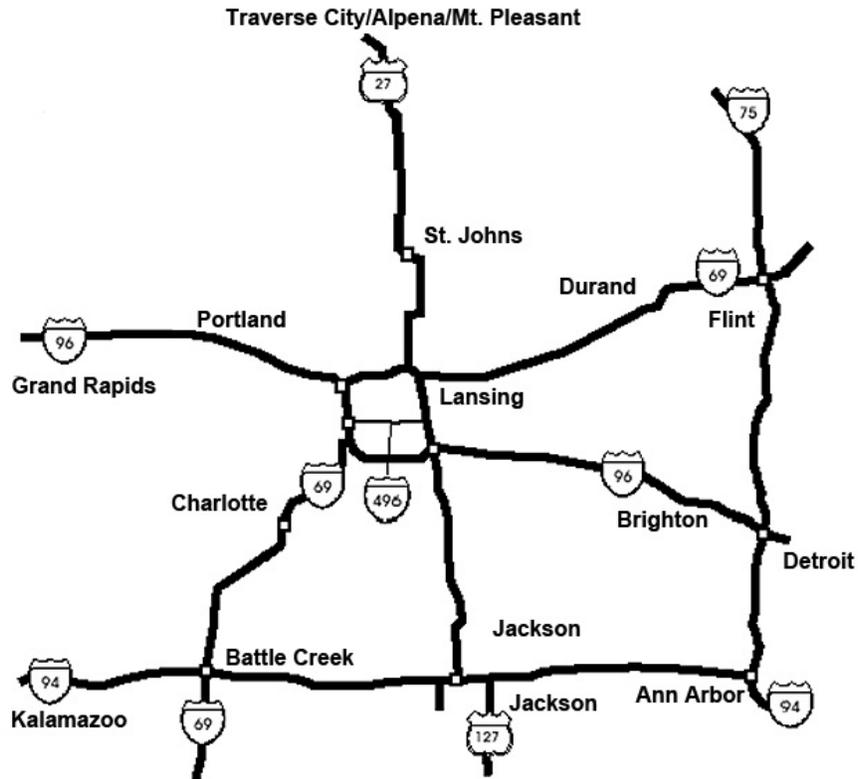
## **For Cash Payments**

The Automated Pay Station inside the south entrance to the Michigan Library and Historical Center will accept cash and credit card payments. Also, the DTMB Parking office on the first floor of the Hannah building will accept cash, check and credit card payments Monday thru Friday from 7am to 5pm.

## **If Visitor Parking Is Full**

In the unlikely event that the lot is full, continue east on Allegan to Pine Street. Turn right on Pine and take it one block to Kalamazoo Street. Turn right on Kalamazoo, go to the next street (Butler) and turn right, and then enter the parking lot behind the Michigan Library and Historical Center.

# Maps



## 1. Minor Corrections

A. A number of forms reference MCL 712A.13a(13) as being the basis for the release of information by the Department of Health & Human Services (“DHHS”) to foster parents. However, following two recent amendments to MCL 712A.13a, what was subsection 13 is now subsection 15<sup>1</sup>. Therefore, the references to MCL 712A.13a(13) will be updated to MCL 712A.13a(15) on the following forms: JC 11a (item 25); JC 11b (item 19); JC 17 (item 18); JC 49 (item 21); and JC 75 (item 16).

Similarly, the reference to MCL 712A.13a(12) should be modified to subsection (14) on the following forms: JC 15.

- B. On JC 17, the subparts of item 18 are not numbered. These subparts will be numbered similarly to the way the same provision appears on JC 49.
- C. On JC 05b, page 2, after *Recommended by*, the reference to MCL 712a.14[a][3] should be corrected to MCL 712A.14a(3).
- D. On PC51a Special Instructions for Name Change, the P.O. Box listed for the Michigan State Police should be updated to P.O. Box 30266.

<sup>1</sup> See 2012 PA 115 & 2012 PA 163.

2. On JC11b Order after Pretrial, it has been suggested that a checkbox to dismiss the petition be added. The suggestion noted that many cases may be closed at pretrial and a checkbox for dismissal would be convenient. The affected form is attached.

**Should the checkbox be added?** (Space below provided for notes)

## Matthew Walker

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**From:** Kathleen Feeney <kathleen.feeney@kentcountymi.gov>  
**Sent:** Tuesday, August 11, 2015 3:50 PM  
**To:** Court Forms Info  
**Cc:** Elizabeth Shearer  
**Subject:** Comments re: revised and new child protective proceeding forms

1. JC 11a: No. The current form is an affirmative finding that the child is an Indian child. Why would we also need a box stating that the child is not an Indian child? If we do this for other items, our forms will be significantly longer than they are now.
2. JC 11a, 17 and 49(1): No. The current language appears to comply with the statute and is more explicit than MCR 3.965.
3. JC 11b: Yes. A box to dismiss the petition would be fine.
4. It is unclear whether the recommendation would require the court to (a) list each parent's progress, or (b) say whether each parent has made progress or no progress. I would support option (b) but not option (a).
5. JC 19, 76(1): I am not seeing where APPLA-E has been eliminated for children over 16. If I am missing something to that end, then the change should be made. The quoted material only makes clear that APPLA can't be used for children under 16.
6. JC 49: Yes.
7. JC 75: Yes.

Thank you for your consideration.  
KAF

## Matthew Walker

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**From:** Judge Owens <dowens@courts.mi.gov>  
**Sent:** Tuesday, August 25, 2015 4:02 PM  
**To:** Court Forms Info  
**Subject:** Child Protective Proceedings forms comments

JC 11a: No need

JC 11a, 17, 49: Yes. This change will also make it consistent with MCL 712A.13a(9)(e).

JC 11b: Yes

JC19: Yes

JC 19, 76: Yes

JC 49: Yes

JC 75: Yes

Judge Donald S. Owens  
Michigan Court of Appeals

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<b>STATE OF MICHIGAN</b> <b>JUDICIAL CIRCUIT - FAMILY DIVISION</b> <b>COUNTY</b>	<b>ORDER AFTER PRETRIAL HEARING</b> <b>(CHILD PROTECTIVE PROCEEDINGS), PAGE 1</b> <b>ORDER _____ OF _____</b>	<b>CASE NO.</b> <b>PETITION NO.</b>
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Court address

Court telephone no.

1. In the matter of  
name(s), alias(es), DOB
2. Date of hearing: \_\_\_\_\_ Judge/Referee: \_\_\_\_\_ Bar no.
3. Removal date: \_\_\_\_\_ (Specify for each child if different.)

**THE COURT FINDS that:**

4. A petition has been submitted alleging that the above child(ren) come(s) within the provisions of MCL 712A.2(b).
5. The child(ren)  is/are  is not/are not subject to the continuing jurisdiction of \_\_\_\_\_ Court(s).
6.  Notice of hearing was given as required by law.  Notice of proceedings is to be given as required by law.
7. The lawyer-guardian ad litem  has  has not complied with the requirements of MCL 712A.17d.
8.  a. There is probable cause to believe the legal/putative father(s) is/are: (Name each child, his/her father, and whether legal or putative.)  
  
 b. The putative father of \_\_\_\_\_ is unknown and cannot be identified.  
 c. The putative father was notified as required by law and failed to establish paternity within the time set by the court. The putative father waives all rights to further notice, including the right to notice of termination of parental rights and the right to an attorney.
9. The child(ren) has/have not been removed prior to this hearing and an order to take the child(ren) into protective custody is necessary because: (a) the child(ren) is/are at substantial risk of harm or is/are in surroundings that present an imminent risk of harm and the child(ren)'s immediate removal from those surroundings is necessary to protect the child(ren)'s health and safety; (b) the circumstances warrant issuing this order; and (c) no remedy other than protective custody is reasonably available to protect the child(ren). (If this box is checked, contrary to the welfare and reasonable efforts findings must be made. See items 11 and 12.)
10. The child(ren) is/are Indian as defined in MCR 3.002(12). The petitioner  has  has not given notice of the pretrial hearing as required by MCR 3.920(C)(1).  
 The pretrial hearing must be adjourned pending conclusion of a removal hearing required by MCR 3.967.  
 The removal hearing required by MCR 3.967 was conducted in conjunction with this hearing (see required findings in item 12).  
  
A qualified expert, \_\_\_\_\_, testified as required by law.
11.  a. Contrary to the welfare findings were made in a prior order.  
 b. It is contrary to the welfare of the child(ren) to remain in the home because: (Attach separate sheets as necessary.)

(SEE SECOND PAGE)

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Do not write below this line - For court use only

<b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	<b>ORDER AFTER PRETRIAL HEARING</b> <b>(CHILD PROTECTIVE PROCEEDINGS), PAGE 2</b> ORDER _____ OF _____	<b>CASE NO.</b> <b>PETITION NO.</b>
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Court address

Court telephone no.

In the matter of

12.  a. Consistent with the circumstances, reasonable efforts to prevent or eliminate removal of the child(ren) from the home were made as determined in a prior order. **OR**
- b. Consistent with the circumstances, reasonable efforts were made to prevent or eliminate removal of the child(ren) from the home. Those efforts include:(Specify below.) **OR**
- c. The child(ren) is/are Indian, and the court finds by clear and convincing evidence and the testimony of a qualified expert witness who has knowledge about the child-rearing practices of the Indian child's tribe, that active efforts
- have  have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family. These efforts have proved  unsuccessful,  successful, the continued custody of the child(ren) by the parent or Indian custodian  is  is not likely to result in serious emotional or physical damage to the child(ren), and the child(ren)  should  should not be removed from the home.
- (Specify below.)

The efforts for 12.b. or 12.c. are: (Specify the efforts from 12.b. or 12.c. here. If the child is an Indian child, specify active efforts as defined by MCR 3.002[1] and MCL 712B.3[a].)

d. Reasonable efforts to prevent or eliminate removal of the child(ren) from the home were not made.

13. a. Reasonable efforts are not required to prevent or eliminate the child(ren)'s removal from the home due to

the  mother  father subjecting the child(ren) to the aggravated circumstance(s) of \_\_\_\_\_ as provided in section MCL 722.638(1) and (2), and as evidenced by \_\_\_\_\_.

- the  mother's  father's conviction for murder of another child of the parent.
- the  mother's  father's conviction for voluntary manslaughter of another child of the parent.
- the  mother's  father's conviction for aiding or abetting in the murder or manslaughter of another child of the parent, attempting to murder the child(ren) or another child of the parent, or conspiring or soliciting to commit the murder of the child(ren) or another child of the parent.
- the  mother's  father's conviction for felony assault that resulted in serious bodily injury to the child(ren) or another child of the parent.
- the  mother's  father's involuntary termination of parental rights to a sibling of the child(ren).
- the  mother  father being required to register under the Sex Offender Registration Act.

b. Reasonable efforts to preserve and reunify the family to make it possible for the child(ren) to safely return home are  not required because the parent subjected the child or another child of the parent to one of the circumstances stated above.

**OR**

still recommended because:

(When item 13 is checked, either complete item 15 below or schedule a permanency planning hearing within 28 days of this determination.)

(SEE THIRD PAGE)

<p align="center"><b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY</p>	<p align="center"><b>ORDER AFTER PRETRIAL HEARING (CHILD PROTECTIVE PROCEEDINGS), PAGE 3 ORDER _____ OF _____</b></p>	<p><b>CASE NO. PETITION NO.</b></p>
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Court address

Court telephone no.

In the matter of

- 14.  a. Reasonable efforts shall be made to preserve and reunify the family to make it possible for the child(ren) to safely return home.
- b. Reasonable efforts shall not be made to preserve and reunify the family because it would be detrimental to the child(ren)'s health and safety.
- 15. Because reasonable efforts to prevent or eliminate removal or to reunite the child(ren) and family are not required, a permanency planning hearing was conducted. (Use and attach form JC 19, Order Following Dispositional Review/Permanency Planning Hearing.)
- 16. Custody of the child(ren) with the parent/guardian/legal custodian
  - a. presents a substantial risk of harm to the child(ren)'s life, physical health, or mental well-being.
    - No provision of service or other arrangement except removal of the child(ren) is reasonably available to adequately safeguard the child(ren) from the risk of harm to the child(ren)'s life, physical health, or mental well-being.
    - Conditions of custody at the placement away from the home and with the individual with whom the child(ren) is/are placed are adequate to safeguard the child(ren)'s health and welfare.
  - b. does not present a substantial risk of harm to the child(ren)'s life, physical health, or mental well-being.
- 17. Parenting time with \_\_\_\_\_, even if supervised, may be harmful to the child(ren).

**IT IS ORDERED:**

- 18. Notice is to be given to the legal/putative father(s) as required by law.  The father was not present and must appear at the next hearing.  The putative father was present at this hearing and shall establish paternity within 14 days.
- 19. The child(ren)
  - a. is/are placed with the Department of Human Services for care and supervision, and
    - i. the parent(s), guardian, or legal custodian shall execute all documents necessary to release confidential information regarding the child(ren) including medical, mental, and educational reports, and shall also, within 7 days, provide the Department of Human Services with the name(s) and address(es) of the medical provider(s) for the child(ren). Any medical provider for the child(ren) shall release the medical records of the child(ren) to the Department of Human Services.
    - ii. if the child(ren) is/are placed in the home of a relative, a home study shall be performed by the Department of Human Services and a copy of the home study submitted to the court not more than 30 days after the placement.
    - iii. upon request, the Department of Human Services shall release to the foster parent the information concerning the child(ren) in accordance with MCL 712A.13a(13).
  - The child(ren) shall be taken into protective custody. To effect this order, \_\_\_\_\_ is authorized to enter the premises located at \_\_\_\_\_ . This authorization to enter the premises and take the child(ren) into protective custody expires \_\_\_\_\_ .  
 Enter on LEIN
  - b. remain home with or is/are released to \_\_\_\_\_ under the supervision of \_\_\_\_\_  
Name(s) of parent(s), guardian, or legal custodian  
the Department of Human Services.  The following terms and conditions apply to the parent/guardian/legal custodian:

(SEE FOURTH PAGE)

<p align="center"><b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY</p>	<p align="center"><b>ORDER AFTER PRETRIAL HEARING (CHILD PROTECTIVE PROCEEDINGS), PAGE 4 ORDER _____ OF _____</b></p>	<p><b>CASE NO. PETITION NO.</b></p>
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Court address

Court telephone no.

In the matter of

**IT IS ORDERED:** (continued)

20. The child(ren) named \_\_\_\_\_ shall have  a psychological evaluation  counseling to determine appropriateness and conditions of parenting time.

21.  a. Parenting time of \_\_\_\_\_ is  unsupervised.  supervised until further order of the court.  
 The Department of Human Services has discretion to allow unsupervised or supervised parenting time by its designee.

b. Parenting time of \_\_\_\_\_ is  unsupervised.  supervised until further order of the court.  
 The Department of Human Services has discretion to allow unsupervised or supervised parenting time by its designee.

c. Parenting time of \_\_\_\_\_ is  unsupervised.  supervised until further order of the court.  
 The Department of Human Services has discretion to allow unsupervised or supervised parenting time by its designee.

d.

22. Until further order of the court, placement shall continue pending  resumption of the pretrial  trial  
on \_\_\_\_\_ .  
Date and time

23. Other: (Include orders regarding discovery, scheduling orders, etc.)

24. Prior orders remain in effect except as modified by this order.  
Recommended by: \_\_\_\_\_  
Referee signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Judge

3. On JC11a Order after Preliminary Hearing, it has been suggested that a checkbox be added to item 14 allowing a finding that a child is not Indian.

The current language of the form states:

14. The child(ren) is/are Indian as defined in MCR 3.002(12). The petitioner  has  has not given notice of the preliminary hearing as required by MCR 3.920(C)(1).
- The preliminary hearing must be adjourned pending conclusion of a removal hearing required by MCR 3.967.
  - The removal hearing required by MCR 3.967 was conducted in conjunction with this hearing (see required findings in Item 16).

A qualified expert, \_\_\_\_\_, testified as required by law.

**JC11a, Item 14**

**Should the checkbox be added?** (Space below provided for notes)

## Matthew Walker

---

**From:** Kathleen Feeney <kathleen.feeney@kentcountymi.gov>  
**Sent:** Tuesday, August 11, 2015 3:50 PM  
**To:** Court Forms Info  
**Cc:** Elizabeth Shearer  
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2. JC 11a, 17 and 49(1): No. The current language appears to comply with the statute and is more explicit than MCR 3.965.
3. JC 11b: Yes. A box to dismiss the petition would be fine.
4. It is unclear whether the recommendation would require the court to (a) list each parent's progress, or (b) say whether each parent has made progress or no progress. I would support option (b) but not option (a).
5. JC 19, 76(1): I am not seeing where APPLA-E has been eliminated for children over 16. If I am missing something to that end, then the change should be made. The quoted material only makes clear that APPLA can't be used for children under 16.
6. JC 49: Yes.
7. JC 75: Yes.

Thank you for your consideration.  
KAF

## Matthew Walker

---

**From:** Judge Owens <dowens@courts.mi.gov>  
**Sent:** Tuesday, August 25, 2015 4:02 PM  
**To:** Court Forms Info  
**Subject:** Child Protective Proceedings forms comments

JC 11a: No need

JC 11a, 17, 49: Yes. This change will also make it consistent with MCL 712A.13a(9)(e).

JC 11b: Yes

JC19: Yes

JC 19, 76: Yes

JC 49: Yes

JC 75: Yes

Judge Donald S. Owens  
Michigan Court of Appeals

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<p align="center"><b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY</p>	<p align="center"><b>ORDER AFTER PRELIMINARY HEARING (CHILD PROTECTIVE PROCEEDINGS), PAGE 1 ORDER _____ OF _____</b></p>	<p><b>CASE NO. PETITION NO.</b></p>
--	--	---

Court address

Court telephone no.

1. In the matter of  
name(s), alias(es), DOB

2. Date of hearing: \_\_\_\_\_ Judge/Referee: \_\_\_\_\_ Bar no.

3. Removal date: \_\_\_\_\_ (Specify for each child if different.)

4. Military/nonmilitary affidavit attached.

**THE COURT FINDS:**

5. A petition has been submitted alleging that the above child(ren) come(s) within the provisions of MCL 712A.2(b).

6. The child(ren)  is/are  is not/are not subject to the continuing jurisdiction of another court. Court: \_\_\_\_\_

7.  Notice of hearing was given as required by law.  Notice of proceedings is to be given as required by law.

8.  a. There is probable cause to believe the legal/putative father(s) is/are: (Name each child, his/her father, and whether legal or putative.)

b. The putative father of \_\_\_\_\_ is unknown and cannot be identified.

9. The probable-cause determination was waived by all parties present.

10. There  is  is not probable cause that one or more of the allegations in the petition are true.

11. There is good cause to adjourn the preliminary hearing because \_\_\_\_\_ .  
 Petitioner recommends removal of the child(ren) from the home to assure the immediate safety of the child(ren).

12. There is probable cause the  parent  guardian  legal custodian  other person residing in the child(ren)'s home abused the child(ren). Presence of the alleged abuser in the home  does  does not present a substantial risk of harm to the child(ren)'s life, physical health, or mental well-being and he/she  should  should not be ordered out of the home. (Use form JC 65, Order Removing Alleged Abuser from Child's Home, as appropriate.)

13. The child(ren) has/have not been removed prior to this hearing and an order to take the child(ren) into protective custody is necessary because: (a) the child(ren) is/are at substantial risk of harm or is/are in surroundings that present an imminent risk of harm and the child(ren)'s immediate removal from those surroundings is necessary to protect the child(ren)'s health and safety; (b) the circumstances warrant issuing this order; and (c) no remedy other than protective custody is reasonably available to protect the child(ren). (If this box is checked, contrary to the welfare and reasonable efforts findings must be made. See items 15 and 16.)

(SEE SECOND PAGE)

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<p align="center"><b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY</p>	<p align="center"><b>ORDER AFTER PRELIMINARY HEARING (CHILD PROTECTIVE PROCEEDINGS), PAGE 2 ORDER _____ OF _____</b></p>	<p><b>CASE NO. PETITION NO.</b></p>
--	--	---

Court address

Court telephone no.

In the matter of

14. The child(ren) is/are Indian as defined in MCR 3.002(12). The petitioner  has  has not given notice of the preliminary hearing as required by MCR 3.920(C)(1).  
 The preliminary hearing must be adjourned pending conclusion of a removal hearing required by MCR 3.967.  
 The removal hearing required by MCR 3.967 was conducted in conjunction with this hearing (see required findings in item 16).

A qualified expert, \_\_\_\_\_, testified as required by law.

15.  a. Contrary to the welfare findings were made in a prior order.  
 b. It is contrary to the welfare of the child(ren) to remain in the home because: (Attach separate sheets as necessary.)

16.  a. Consistent with the circumstances, reasonable efforts to prevent or eliminate removal of the child(ren) from the home were made as determined in a prior order. **OR**  
 b. Consistent with the circumstances, reasonable efforts were made to prevent or eliminate removal of the child(ren) from the home. Those efforts include: (Specify below.) **OR**  
 c. The child(ren) is/are Indian, and the court finds by clear and convincing evidence and the testimony of a qualified expert witness who has knowledge about the child-rearing practices of the Indian child's tribe, that active efforts  have  have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family. These efforts have proved  unsuccessful,  successful, the continued custody of the child(ren) by the parent or Indian custodian  is  is not likely to result in serious emotional or physical damage to the child(ren), and the child(ren)  should  should not be removed from the home.  
(Specify below.)

The efforts for 16.b. or 16.c. are: (Specify the efforts from 16.b. or 16.c. here. If the child is an Indian child, specify active efforts as defined by MCR 3.002[1] and MCL 712B.3[a].)

- d. Reasonable efforts to prevent or eliminate removal of the child(ren) from the home were not made.

(SEE THIRD PAGE)

<b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION <b>COUNTY</b>	<b>ORDER AFTER PRELIMINARY HEARING</b> <b>(CHILD PROTECTIVE PROCEEDINGS), PAGE 3</b> <b>ORDER _____ OF _____</b>	<b>CASE NO.</b> <b>PETITION NO.</b>
---	--	--

Court address

Court telephone no.

In the matter of

17. a. Reasonable efforts are not required to prevent or eliminate the child(ren)'s removal from the home due to  
 the  mother's  father's subjecting the child(ren) to the aggravated circumstance(s) of \_\_\_\_\_ as provided in section MCL 722.638(1) and (2), and as evidenced by \_\_\_\_\_.

- the  mother's  father's conviction for murder of another child of the parent.
- the  mother's  father's conviction for voluntary manslaughter of another child of the parent.
- the  mother's  father's conviction for aiding or abetting in the murder or manslaughter of another child of the parent, attempting to murder the child(ren) or another child of the parent, or conspiring or soliciting to commit the murder of the child(ren) or another child of the parent.
- the  mother's  father's conviction for felony assault that resulted in serious bodily injury to the child(ren) or another child of the parent.
- the  mother's  father's involuntary termination of parental rights to a sibling of the child(ren).
- the  mother  father being required to register under the Sex Offender Registration Act.

b. Reasonable efforts to preserve and reunify the family to make it possible for the child(ren) to safely return home are  
 not required because the parent subjected the child or another child of the parent to one of the circumstances stated above.  
**OR**  
 still recommended because:

(When item 17 is checked, either complete item 19 below or schedule a permanency planning hearing within 28 days of this determination.)

18.  a. Reasonable efforts shall be made to preserve and reunify the family to make it possible for the child(ren) to safely return home.  
 b. Reasonable efforts shall not be made to preserve and reunify the family because it would be detrimental to the child(ren)'s health and safety.

19. Because reasonable efforts to prevent or eliminate removal or to reunite the child(ren) and family are not required, a permanency planning hearing was conducted. **(Use and attach form JC 19, Order Following Dispositional Review/Permanency Planning Hearing.)**

20. Custody of the child(ren) with the parent/guardian/legal custodian  
 a. presents a substantial risk of harm to the child(ren)'s life, physical health, or mental well-being.  
 No provision of service or other arrangement except removal of the child(ren) is reasonably available to adequately safeguard the child(ren) from the risk of harm to the child(ren)'s life, physical health, or mental well-being.  
 Conditions of custody at the placement away from the home and with the individual with whom the child(ren) is/are placed are adequate to safeguard the child(ren)'s health and welfare.  
 b. does not present a substantial risk of harm to the child(ren)'s life, physical health, or mental well-being.

21. Parenting time with \_\_\_\_\_, even if supervised, may be harmful to the child(ren).

(SEE FOURTH PAGE)

<p align="center"><b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY</p>	<p align="center"><b>ORDER AFTER PRELIMINARY HEARING (CHILD PROTECTIVE PROCEEDINGS), PAGE 4 ORDER _____ OF _____</b></p>	<p><b>CASE NO. PETITION NO.</b></p>
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Court address

Court telephone no.

In the matter of

**IT IS ORDERED:**

22. The petition  is authorized.  is not authorized.  is not authorized pending resumption of the preliminary hearing.

23. Notice is to be given to the legal/putative father(s) as required by law.  The father was not present and must appear at the next hearing.  The putative father was present at this hearing and shall establish paternity within 14 days.

24. This matter is set for a continued preliminary/removal hearing on \_\_\_\_\_ pursuant to MCR 3.967. The petitioner shall give notice of these proceedings as required by MCR 3.920(C)(1) (use form JC 48).

25. The child(ren)

a. is/are placed with the Department of Human Services for care and supervision, and

- i. the parent(s), guardian, or legal custodian shall execute all documents necessary to release confidential information regarding the child(ren) including medical, mental, and educational reports, and shall also, within 7 days, provide the Department of Human Services with the name(s) and address(es) of the medical provider(s) for the child(ren). Any medical provider for the child(ren) shall release the medical records of the child(ren) to the Department of Human Services.
- ii. if the child(ren) is/are placed in the home of a relative, a home study shall be performed by the Department of Human Services and a copy of the home study submitted to the court not more than 30 days after the placement.
- iii. upon request, the Department of Human Services shall release to the foster parent the information concerning the child(ren) in accordance with MCL 712A.13a(13).

The child(ren) shall be taken into protective custody. To effect this order, \_\_\_\_\_ is authorized to enter the premises located at \_\_\_\_\_. This authorization to enter the premises and take the child(ren) into protective custody expires \_\_\_\_\_.  
 Enter on LEIN

b. is/are released to \_\_\_\_\_ under the supervision of the Department of Human Services.  The following terms and conditions apply to the parent(s), guardian, or legal custodian:  
Name(s) of parent(s), guardian, or legal custodian

26. The child(ren) named \_\_\_\_\_ shall have  a psychological evaluation  counseling to determine appropriateness and conditions of parenting time.

27.  a. Parenting time of \_\_\_\_\_ is  unsupervised.  supervised until further order of the court.  
 The Department of Human Services has discretion to allow unsupervised or supervised parenting time by its designee.

b. Parenting time of \_\_\_\_\_ is  unsupervised.  supervised until further order of the court.  
 The Department of Human Services has discretion to allow unsupervised or supervised parenting time by its designee.

c. Parenting time of \_\_\_\_\_ is  unsupervised.  supervised until further order of the court.  
 The Department of Human Services has discretion to allow unsupervised or supervised parenting time by its designee.

d.

(SEE FIFTH PAGE)

<p align="center"><b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY</p>	<p align="center"><b>ORDER AFTER PRELIMINARY HEARING (CHILD PROTECTIVE PROCEEDINGS), PAGE 5 ORDER _____ OF _____</b></p>	<p><b>CASE NO. PETITION NO.</b></p>
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Court address

Court telephone no.

In the matter of

**IT IS ORDERED:** (continued)

28. Until further order of the court, placement shall continue pending  resumption of the preliminary hearing  pretrial  
 trial  disposition on \_\_\_\_\_ .  
Date and time

29. Other:

Recommended by: \_\_\_\_\_  
Referee signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Judge

## CHECKLIST FOR ADVICE OF RIGHTS AND GENERAL PROCEDURE FOR PRELIMINARY HEARING

1.  Determine whether parent(s), guardian, or legal custodian have been notified, are present, and if not present, whether to proceed in their absence.
2.  Determine whether the lawyer-guardian ad litem for the child is present and direct that the lawyer-guardian ad litem for the child receive a copy of the petition.
3.  Determine whether the minor has no father as defined in MCR 3.903(A)(7) and take appropriate action as described in MCR 3.921(D).
4.  If a respondent is present, assure that each respondent has a copy of the petition.
5.  Read the allegations in the petition in open court unless waived by all parties present.
6.  Determine whether the petition should be dismissed or the matter referred to alternate services; otherwise, the preliminary hearing shall continue.
7.  Advise the respondent of the right to the assistance of an attorney.
8.  Advise the respondent of the right to trial on the allegations in the petition and that the trial may be before a referee unless a timely demand for a jury or judge is filed.
9.  Allow the respondent an opportunity to deny or admit allegations and make a statement of explanation.
10.  If the hearing is held by a referee, advise the parties of the right to file a request for review of the referee's recommended findings and conclusions.
11.  Inquire whether the child is subject to the continuing jurisdiction of another Michigan court and, if so, which court.
12.  Inquire if the child is an Indian as defined in MCR 3.002(12), and if so, follow the procedure in MCR 3.965(B)(2) and determine whether to continue with the preliminary hearing.
13.  Unless the preliminary hearing is adjourned, decide whether to authorize the filing of the petition, and if authorized, whether to release the child to a parent, guardian, or legal custodian or whether to place the child out of the home as prescribed by MCR 3.965(C). **If this is the first court order authorizing removal of the child, make findings regarding whether:**
  - **custody of the child with the parent presents a substantial risk of harm to the child's life, physical health, or mental well-being.**
  - **no provision of service or other arrangement except removal of the child is reasonably available to adequately safeguard the child from risk of harm to the child's life, physical health, or mental well-being.**
  - **continuing the child's residence in the home is contrary to the child's welfare.**
  - **consistent with the circumstances, reasonable efforts were made to prevent or eliminate the need for removal of the child.**
  - **conditions of child custody away from the parent are adequate to safeguard the child's health and welfare.**Reasonable efforts findings must be made now or within 60 days of the date of removal. If the child is an Indian, there are additional requirements.
14.  Advise the parent(s) when additional costs or reimbursement may be assessed.
15.  Having ordered placement of the child outside the child's home, inform the parties of the following:
  - a. that the agency has the responsibility to prepare an initial services plan within 30 days after the child's placement.
  - b. the general elements of an initial services plan as required by the rules promulgated pursuant to 1973 PA 116, MCL 722.111 to 722.128, including:
    - the background of the child(ren) and the family;
    - an evaluation of the experiences and problems of the child(ren);
    - a projection of the expected length of stay in foster care; and
    - an identification of specific goals and projected time frames for meeting the goals.
  - c. that participation in an initial services plan is voluntary without a court order.
  - d. that, on motion of a party, the court will review the initial services plan and may modify the plan if it is in the best interests of the child.
16.  Having found the alleged abuser should be ordered out of the home, complete JC 65, Order Removing Alleged Abuser from Child's Home.

4. On JC19 Order after Dispositional Review, it has been suggested that lines be added indicating whether progress was made for each parent. The commenter suggests that because of the *Sanders*<sup>2</sup> decision, indications of both parents' progress should be made.

The current form states:

13. Progress toward alleviating or mitigating the conditions that caused the child(ren) to be placed or to remain in temporary foster care  was  was not made in accordance with MCL 712A.19(7).

**JC 19, Item 13**

The statute states:

(7) After review of the case service plan, the court shall determine the extent of progress made toward alleviating or mitigating the conditions that caused the child to be placed in foster care or that caused the child to remain in foster care. The court may modify any part of the case service plan including, but not limited to, the following:

(a) Prescribing additional services that are necessary to rectify the conditions that caused the child to be placed in foster care or to remain in foster care.

(b) Prescribing additional actions to be taken by the parent, guardian, nonparent adult, or custodian, to rectify the conditions that caused the child to be placed in foster care or to remain in foster care.

**MCL 712A.19(7)**

**Should the suggestion be adopted?** (Space below provided for notes)

<sup>2</sup> *In re Sanders*, 495 Mich 394; 852 NW2d 524 (2014).

## Matthew Walker

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**From:** Kathleen Feeney <kathleen.feeney@kentcountymi.gov>  
**Sent:** Tuesday, August 11, 2015 3:50 PM  
**To:** Court Forms Info  
**Cc:** Elizabeth Shearer  
**Subject:** Comments re: revised and new child protective proceeding forms

1. JC 11a: No. The current form is an affirmative finding that the child is an Indian child. Why would we also need a box stating that the child is not an Indian child? If we do this for other items, our forms will be significantly longer than they are now.
2. JC 11a, 17 and 49(1): No. The current language appears to comply with the statute and is more explicit than MCR 3.965.
3. JC 11b: Yes. A box to dismiss the petition would be fine.
4. It is unclear whether the recommendation would require the court to (a) list each parent's progress, or (b) say whether each parent has made progress or no progress. I would support option (b) but not option (a).
5. JC 19, 76(1): I am not seeing where APPLA-E has been eliminated for children over 16. If I am missing something to that end, then the change should be made. The quoted material only makes clear that APPLA can't be used for children under 16.
6. JC 49: Yes.
7. JC 75: Yes.

Thank you for your consideration.  
KAF

## Matthew Walker

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**From:** Judge Owens <dowens@courts.mi.gov>  
**Sent:** Tuesday, August 25, 2015 4:02 PM  
**To:** Court Forms Info  
**Subject:** Child Protective Proceedings forms comments

JC 11a: No need

JC 11a, 17, 49: Yes. This change will also make it consistent with MCL 712A.13a(9)(e).

JC 11b: Yes

JC19: Yes

JC 19, 76: Yes

JC 49: Yes

JC 75: Yes

Judge Donald S. Owens  
Michigan Court of Appeals

This message has been prepared on computer equipment and resources owned by the Michigan Court of Appeals. It is subject to the terms and conditions of the Court's Computer Acceptable Use Policy.

<b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	<b>ORDER FOLLOWING DISPOSITIONAL REVIEW/          PERMANENCY PLANNING HEARING          (CHILD PROTECTIVE PROCEEDINGS), PAGE 1          ORDER _____ OF _____</b>	<b>CASE NO.          PETITION NO.</b>
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Court address \_\_\_\_\_

Court telephone no. \_\_\_\_\_

1. In the matter of  
name(s), alias(es), DOB \_\_\_\_\_

2. Date of hearing: \_\_\_\_\_ Judge/Referee: \_\_\_\_\_ Bar no. \_\_\_\_\_

3. Removal date: \_\_\_\_\_ (Specify for each child if different.)

Last permanency planning hearing date: \_\_\_\_\_ (Specify for each child if different.)

4. As of the last order, the child(ren) named above was/were in the protective/temporary custody of the court, and  
 remained in the home.  was/were placed with the Department of Human Services for care and supervision.

5. Notice of hearing for the  review  permanency planning  combined review and permanency planning  
hearing was served as required by law.  Notice of proceedings is to be given as required by law.

6. This review hearing involves an Indian child in which removal has been requested or in which the child was removed from the home pursuant to an emergency removal hearing conducted in accordance with MCR 3.974(C). The removal hearing  
 was conducted in conjunction with the emergency removal hearing.  is scheduled for \_\_\_\_\_ .

**THE COURT FINDS:**

7. The lawyer-guardian ad litem  has  has not \_\_\_\_\_ complied with the requirements of MCL 712A.17d.

8.  a. There is probable cause to believe the legal/putative father(s) is/are:  
(Name each child, his/her father, and whether legal or putative.)

b. The putative father of \_\_\_\_\_ is unknown and cannot be identified.

c. The putative father was notified as required by law and failed to establish paternity within the time set by the court. The putative father waives all rights to further notice, including the right to notice of termination of parental rights and the right to an attorney.

9. The court has considered the case service plan and other evidence presented. The findings below are specific to this case and are based upon this hearing, and  the following report(s): \_\_\_\_\_  
identify report(s) and date(s) of report(s)

Specific conditions reviewed on the record as required by MCL 712A.19(6) were

- a. compliance with the case service plan with respect to services provided or offered to the child and his or her parent(s), guardian, or legal custodian and whether the parent(s), guardian, or legal custodian complied with and benefited from those services.
- b. compliance with the case service plan with respect to parenting time with the child and whether parenting time did not occur or was infrequent and the reasons why.
- c. the extent to which the parent(s), guardian, or legal custodian complied with each provision of the case service plan, prior court orders, and any agreement between the parent(s), guardian, or legal custodian and the agency.
- d. likely harm to the child if the child continued to be separated from his or her parent(s), guardian, or legal custodian.
- e. likely harm to the child if the child was returned to his or her parent(s), guardian, or legal custodian.

**NOTE:** If the child(ren) was/were not removed prior to the dispositional review or permanency planning hearing and new allegations are made that require removal, a supplemental petition must be prepared and filed and an emergency removal hearing held, whereupon contrary to the welfare and reasonable efforts findings must be made. Use form JC 75. See MCR 3.974(B) and (C). The emergency removal hearing can be combined with a dispositional review hearing.

(SEE SECOND PAGE)

**USE NOTE:** Do not use this form for review or permanency planning hearings after termination. Use form JC 76 instead.

Do not write below this line - For court use only

<b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	<b>ORDER FOLLOWING DISPOSITIONAL REVIEW/                  PERMANENCY PLANNING HEARING                  (CHILD PROTECTIVE PROCEEDINGS), PAGE 2                  ORDER _____ OF _____</b>	<b>CASE NO.                  PETITION NO.</b>
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Court address

Court telephone no.

In the matter of

10. Returning the child(ren) to the parent(s), guardian, or legal custodian  would  would not cause a substantial risk of harm to the child(ren)'s life, physical health, or mental well-being.

11. The child(ren) should not be returned to the parent(s), guardian, or legal custodian. (State reasons for a. or b. in the space below.)

a. The agency  should  should not initiate proceedings to terminate the parental rights to the child(ren) because:

b. The child has been in foster care for 15 months of the most recent 22 months, and the agency

should initiate proceedings to terminate the parental rights to the child(ren).

should not initiate proceedings to terminate the parental rights to the child(ren) for the following compelling reasons:

12.  a. Reasonable efforts  were  were not made to preserve and reunify the family to make it possible for the child(ren) to safely return to the child(ren)'s home. (Specify reasonable efforts below, and if applicable, the reasons for return.)

1) Reasonable efforts for reunification should be continued.

2) Those reasonable efforts were successful and the child(ren) should be released to

\_\_\_\_\_  
 Name(s) of parent(s), guardian, or legal custodian

The reasonable efforts include: (Specify.)

b. Reasonable efforts to preserve and reunify the family to make it possible for the child(ren) to safely return to the child(ren)'s home are not required based on a prior order.

13. Progress toward alleviating or mitigating the conditions that caused the child(ren) to be placed or to remain in temporary foster care  was  was not made in accordance with MCL 712A.19(7).

14. The child(ren)'s continued placement  is necessary and appropriate and is meeting the child(ren)'s needs.

is no longer necessary or appropriate.

15. The child(ren) is/are Indian as defined in MCR 3.002(12), and placement  remains  does not remain appropriate and  does  does not comply with MCR 3.967(F).

(SEE THIRD PAGE)

<b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	<b>ORDER FOLLOWING DISPOSITIONAL REVIEW/          PERMANENCY PLANNING HEARING          (CHILD PROTECTIVE PROCEEDINGS), PAGE 3          ORDER ____ OF ____</b>	<b>CASE NO.          PETITION NO.</b>
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Court address

Court telephone no.

In the matter of

16. The child(ren) is/are Indian and the court finds that active efforts  have  have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family.

17. \*Reasonable efforts  have  have not been made to finalize the court-approved permanency plan of

- a. return to the parent for the child(ren) named \_\_\_\_\_.
- b. adoption for the child(ren) named \_\_\_\_\_.
- c. legal guardianship for the child(ren) named \_\_\_\_\_.
- d. placement with a fit and willing relative for the child(ren) named \_\_\_\_\_.
- e.  i. placement in another planned permanent living arrangement (APPLA) for the child(ren) named \_\_\_\_\_

ii. placement in another planned permanent living arrangement - emancipation (APPLA-E) for the child(ren) named \_\_\_\_\_

due to the compelling reasons that (Specify the compelling reasons for another planned permanent living arrangement for i. and ii., as appropriate, by entering the language that corresponds to the number[s] from the list on page 5.)

The reasonable efforts made to finalize the court-approved permanency plan identified above include:  
 (Specify the permanency plan for each child and the reasonable efforts made toward finalizing that plan.)

Because adoption is the court-approved permanency plan, the Department of Human Services shall be ordered to initiate proceedings to terminate parental rights.

18. The permanency planning goal in item 17  is appropriate.  is no longer appropriate and shall be: \_\_\_\_\_.

19. The appointment of a juvenile guardian is in the best interest of the child(ren) named above in item 17.c.  The court has received and considered the information required by MCR 3.979(A)(1), and the proposed guardian should be appointed.

20. Parenting time with \_\_\_\_\_, even if supervised, may be harmful to the child(ren).

21. A juvenile guardian was appointed and jurisdiction over \_\_\_\_\_ pursuant to MCL 712A.2(b) should be terminated. (This finding is considered at the first review hearing after the appointment.)

22. A juvenile guardianship for \_\_\_\_\_ was revoked pursuant to MCR 3.979(F), and this hearing is held pursuant to MCR 3.979(F)(7).

**NOTE:** \*MCL 712A.19a provides that these reasonable efforts findings must be made within 12 months from when the child was removed from his/her home and every 12 months thereafter.

(SEE FOURTH PAGE)

<b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	<b>ORDER FOLLOWING DISPOSITIONAL REVIEW/          PERMANENCY PLANNING HEARING          (CHILD PROTECTIVE PROCEEDINGS), PAGE 4</b> ORDER _____ OF _____	<b>CASE NO.          PETITION NO.</b>
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Court address

Court telephone no.

In the matter of

**IT IS ORDERED:**

- 23. Notice is to be given to the legal/putative father(s) as required by law.  The father was not present and must appear at the next hearing.  The putative father was present at this hearing and shall establish paternity within 14 days.
- 24. The child(ren) is/are continued in the protective/temporary custody of this court, and (Check only a, b, c, or d.)
  - a. is/are placed with the Department of Human Services for care and supervision, and
    - i. the parent, guardian, or legal custodian shall execute all documents necessary to release confidential information regarding the child(ren), including medical, mental, and educational reports, and shall also, within 7 days, provide the Department of Human Services with the name(s) and address(es) of the medical provider(s) for the child(ren). Any medical provider of the child(ren) shall release the medical records of the child(ren) to the department.
    - ii. if a home study has not yet been completed, then one shall be performed by the Department of Human Services and a copy of the home study submitted to the court not more than 30 days after the placement.
    - iii. upon request, the Department of Human Services shall release to the foster parent the information concerning the child(ren) in accordance with MCL 712A.13a(15).
  - b. remain home with or is/are released to \_\_\_\_\_ under the supervision of the Department of Human Services.  The following terms and conditions apply to the parent(s) guardian/legal custodian:
  - c. the current placement with the Department of Human Services shall continue. The department shall
    - i. conduct a criminal record check and central registry clearance of the residents of the home of the proposed juvenile guardian and submit the results to the court within 7 days.
    - ii. perform a home study with a copy submitted to the court within 28 days, unless a home study has been performed within the immediately preceding 365 days of this order, in which case, a copy of that home study shall be submitted to the court.
  - d. placed under guardianship pursuant to MCR 3.979(B). (See separate order, form JC 91.)
- 25. While the child(ren) is/are placed out of the home, the friend of the court shall redirect current support due on behalf of the child(ren) to the person with whom the child(ren) is/are placed as long as that person is not receiving foster care maintenance payments. Unpaid child support that charged during the unfunded placement shall also be redirected unless otherwise assigned.
- 26. The Department of Human Services shall comply with MCR 3.967(F).
- 27. The Department of Human Services shall initiate proceedings to terminate parental rights to the child(ren) no later than 28 days from the date of this hearing.
- 28.  a. The parent(s), guardian, or legal custodian shall comply with, and benefit from, the case service plan.  In addition,
  - b. The parent(s) need not comply with, and benefit from, the case service plan because parental rights were released pursuant to the adoption code.
  - c. The parent(s) need not comply with, and benefit from, the case service plan because jurisdiction of the court is terminated.
- 29.  a. Parenting time of \_\_\_\_\_ is
  - unsupervised.  supervised until further order of the court.
  - The Department of Human Services has discretion to allow unsupervised or supervised parenting time by its designee.
- b. Parenting time of \_\_\_\_\_ is
  - unsupervised.  supervised until further order of the court.
  - The Department of Human Services has discretion to allow unsupervised or supervised parenting time by its designee.
- c. Parenting time of \_\_\_\_\_ is
  - unsupervised.  supervised until further order of the court.
  - The Department of Human Services has discretion to allow unsupervised or supervised parenting time by its designee.
- d.

(SEE FIFTH PAGE)

STATE OF MICHIGAN JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	ORDER FOLLOWING DISPOSITIONAL REVIEW/ PERMANENCY PLANNING HEARING (CHILD PROTECTIVE PROCEEDINGS), PAGE 5 ORDER _____ OF _____	CASE NO. PETITION NO.
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Court address

Court telephone no.

In the matter of

**IT IS ORDERED:** (continued)

30. Jurisdiction of this court is terminated. The court reserves the right to enforce payments of reimbursement that have accrued up to and including the date of this order. The child(ren) is/are released to \_\_\_\_\_ .

31. Previous reimbursement orders shall continue.

32. Other: (Attach separate sheet.)

33. Prior orders remain in effect except as modified in this order.

34. Review hearings shall be held as follows:

(NOTE: The review hearing shall not be delayed beyond the number of days required regardless whether a petition to terminate parental rights or another matter is pending. MCL 712A.19a provides that the permanency planning hearing shall not be delayed beyond 12 months from the date of removal of the child and every 12 months thereafter.)

dispositional review hearing \_\_\_\_\_  permanency planning hearing \_\_\_\_\_

dispositional review hearing to terminate jurisdiction pursuant to MCR 3.979(C) \_\_\_\_\_

The supervising agency shall provide documentation of progress relating to all aspects of the last court-ordered treatment plan, including copies of evaluations and therapy reports and verification of parenting time, not later than 5 business days before the scheduled hearing.

35. A hearing to appoint the juvenile guardian pursuant to MCR 3.979(B) shall be held \_\_\_\_\_ .

36.  Notice of the next hearing has been provided as required by law.  Notice of the next hearing shall be provided.

Recommended by: \_\_\_\_\_  
Referee signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Judge

**The following are examples of compelling reasons for a permanency plan other than return to parent, legal guardianship, placement with a fit and willing relative, or adoption.**

1. No relative has been identified who is appropriate or available to assume the permanent custody of the child.
2. The current caregiver is not an adoptive resource.
3. The child has a significant attachment to the parent(s), and it is in the child's best interests that it be preserved through parenting time and contact.
4. Reasonable efforts to recruit an adoptive home have been unsuccessful.
5. The child does not want to be adopted and is of an age where due consideration must be given to his/her wishes.
6. It is contrary to the child's best interests to break the child's attachment to the current caregivers.
7. The current caregiver is committed to providing a permanent placement for the child.
8. The placement allows the siblings to remain together.
9. The child's special needs can best be met in this placement.
10. The child wants to remain in the current placement, which is only available as foster care.
11. The placement is preparing the child for transition into independent living (specify the services being provided to the child to assist with transition such as referral to an independent living skills program, enrollment in a vocational program, referral for a mentor, continued out-of-home placement in foster care beyond age 18 to allow the child to complete secondary school, placement in a resource that provides on-site training for independent living, and other similar services).
12. The child comes under the Indian Child Welfare Act and Michigan Indian Family Preservation Act and the child's tribe recommends permanent placement in long-term foster care.
13. Other (specify in the findings in item 17.e).

## Michigan Compiled Laws Annotated

## Chapters 701 to 713 Probate Code (Refs &amp; Annos)

## Probate Code of 1939 (Refs &amp; Annos)

## Chapter Xiia. Jurisdiction, Procedure, and Disposition Involving Minors (Refs &amp; Annos)

## M.C.L.A. 712A.19

712A.19. Termination or amendment of cause related to child remaining under jurisdiction of court; supplemental order of disposition; review hearing; notice; factors to be reviewed; modification of case service plan; determination; considerations; order; accessibility of agency report; agency report and other information as evidence; concurrent efforts to reunify child with family

Effective: July 11, 2008

[Currentness](#)

Sec. 19. (1) Subject to section 20<sup>1</sup> of this chapter, if a child remains under the court's jurisdiction, a cause may be terminated or an order may be amended or supplemented, within the authority granted to the court in section 18 of this chapter,<sup>2</sup> at any time as the court considers necessary and proper. An amended or supplemented order shall be referred to as a "supplemental order of disposition". If the agency becomes aware of additional abuse or neglect of a child who is under the court's jurisdiction and if that abuse or neglect is substantiated as provided in the child protection law, 1975 PA 238, [MCL 722.621](#) to [722.638](#), the agency shall file a supplemental petition with the court.

(2) Except as provided in subsections (3) and (4), if a child subject to the court's jurisdiction remains in his or her home, a review hearing shall be held not more than 182 days from the date a petition is filed to give the court jurisdiction over the child and no later than every 91 days after that for the first year that the child is subject to the court's jurisdiction. After the first year that the child is subject to the court's jurisdiction, a review hearing shall be held no later than 182 days from the immediately preceding review hearing before the end of that first year and no later than every 182 days from each preceding review hearing thereafter until the case is dismissed. A review hearing under this subsection shall not be canceled or delayed beyond the number of days required in this subsection, regardless of whether a petition to terminate parental rights or another matter is pending. Upon motion by any party or in the court's discretion, a review hearing may be accelerated to review any element of the case service plan prepared according to section 18f of this chapter.<sup>3</sup>

(3) Except as otherwise provided in subsection (4), if, in a proceeding under section 2(b) of this chapter,<sup>4</sup> a child is subject to the court's jurisdiction and removed from his or her home, a review hearing shall be held not more than 182 days after the child's removal from his or her home and no later than every 91 days after that for the first year that the child is subject to the court's jurisdiction. After the first year that the child has been removed from his or her home and is subject to the court's jurisdiction, a review hearing shall be held not more than 182 days from the immediately preceding review hearing before the end of that first year and no later than every 182 days from each preceding review hearing thereafter until the case is dismissed. A review hearing under this subsection shall not be canceled or delayed beyond the number of days required in this subsection, regardless of whether a petition to terminate parental rights or another matter is pending. Upon motion by any party or in the court's discretion, a review hearing may be accelerated to review any element of the case service plan prepared according to section 18f of this chapter.

(4) If a child is under the care and supervision of the agency and is either placed with a relative and the placement is intended to be permanent or is in a permanent foster family agreement, the court shall hold a review hearing not more than 182 days

after the child has been removed from his or her home and no later than every 182 days after that so long as the child is subject to the jurisdiction of the court, the Michigan children's institute, or other agency. A review hearing under this subsection shall not be canceled or delayed beyond the number of days required in this subsection, regardless of whether a petition to terminate parental rights or another matter is pending. Upon the motion of any party or at the court's discretion, a review hearing may be accelerated to review any element of the case service plan.

(5) Written notice of a review hearing under subsection (2), (3), or (4) shall be served upon all of the following:

(a) The agency. The agency shall advise the child of the hearing if the child is 11 years of age or older.

(b) The child's foster parent or custodian .

(c) If the parental rights to the child have not been terminated, the child's parents.

(d) If the child has a guardian, the guardian for the child.

(e) If the child has a guardian ad litem, the guardian ad litem for the child.

(f) A nonparent adult if the nonparent adult is required to comply with the case service plan.

(g) If tribal affiliation has been determined, the elected leader of the Indian tribe.

(h) The attorney for the child, the attorneys for each party, and the prosecuting attorney if the prosecuting attorney has appeared in the case.

(i) If the child is 11 years of age or older, the child.

(j) Other persons as the court may direct.

(6) At a review hearing under subsection (2), (3), or (4), the court shall review on the record all of the following:

(a) Compliance with the case service plan with respect to services provided or offered to the child and the child's parent, guardian, custodian, or nonparent adult if the nonparent adult is required to comply with the case service plan and whether the parent, guardian, custodian, or nonparent adult if the nonparent adult is required to comply with the case service plan has complied with and benefited from those services.

(b) Compliance with the case service plan with respect to parenting time with the child. If parenting time did not occur or was infrequent, the court shall determine why parenting time did not occur or was infrequent.

(c) The extent to which the parent complied with each provision of the case service plan, prior court orders, and an agreement between the parent and the agency.

(d) Likely harm to the child if the child continues to be separated from the child's parent, guardian, or custodian.

(e) Likely harm to the child if the child is returned to the child's parent, guardian, or custodian.

(7) After review of the case service plan, the court shall determine the extent of progress made toward alleviating or mitigating the conditions that caused the child to be placed in foster care or that caused the child to remain in foster care. The court may modify any part of the case service plan including, but not limited to, the following:

(a) Prescribing additional services that are necessary to rectify the conditions that caused the child to be placed in foster care or to remain in foster care.

(b) Prescribing additional actions to be taken by the parent, guardian, nonparent adult, or custodian, to rectify the conditions that caused the child to be placed in foster care or to remain in foster care.

(8) At a review hearing under subsection (2), (3), or (4), the court shall determine the continuing necessity and appropriateness of the child's placement and shall order the return of the child to the custody of the parent, continue the dispositional order, modify the dispositional order, or enter a new dispositional order.

(9) If in a proceeding under section 2(b) of this chapter a child is placed in foster care, the court shall determine at the dispositional hearing and each review hearing whether the cause should be reviewed before the next review hearing required by subsection (2), (3), or (4). In making this determination, the court shall consider at least all of the following:

(a) The parent's ability and motivation to make necessary changes to provide a suitable environment for the child.

(b) Whether there is a reasonable likelihood that the child may be returned to his or her home prior to the next review hearing required by subsection (2), (3), or (4).

(10) Unless waived, if not less than 7 days' notice is given to all parties prior to the return of a child to the child's home, and no party requests a hearing within the 7 days, the court may issue an order without a hearing permitting the agency to return the child to the child's home.

(11) An agency report filed with the court shall be accessible to all parties to the action and shall be offered into evidence. The court shall consider any written or oral information concerning the child from the child's parent, guardian, custodian, foster parent, child caring institution, relative with whom a child is placed, attorney, lawyer-guardian ad litem, or guardian ad litem, in addition to any other evidence, including the appropriateness of parenting time, offered at the hearing.

(12) Reasonable efforts to finalize an alternate permanency plan may be made concurrently with reasonable efforts to reunify the child with the family.

(13) Reasonable efforts to place a child for adoption or with a legal guardian, including identifying appropriate in-state or out-of-state options, may be made concurrently with reasonable efforts to reunify the child and family.

#### Credits

Amended by [P.A.1988, No. 224, § 1, Eff. April 1, 1989](#); [P.A.1994, No. 264, § 1, Eff. Jan. 1, 1995](#); [P.A.1996, No. 16, § 1, Eff. June 1, 1996](#); [P.A.1997, No. 163, Eff. March 31, 1998](#); [P.A.1998, No. 480, Eff. March 1, 1999](#); [P.A.1998, No. 530, Eff. July 1, 1999](#); [P.A.2004, No. 477, Imd. Eff. Dec. 28, 2004](#); [P.A.2008, No. 202, Imd. Eff. July 11, 2008](#).

[Notes of Decisions \(37\)](#)

#### Footnotes

1 [M.C.L.A. § 712A.20.](#)

2 [M.C.L.A. § 712A.18.](#)

3 [M.C.L.A. § 712A.18f.](#)

4 [M.C.L.A. § 712A.2.](#)

M. C. L. A. 712A.19, MI ST 712A.19

The statutes are current through P.A.2015, No. 130, of the 2015 Regular Session, 98th Legislature.

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5. On JC11a Order after Preliminary Hearing, JC17 Order of Disposition, and JC 49 Order of Adjudication, there is language concerning the custody of the child(ren). The current language on the forms states:

- Conditions of custody at the placement away from the home and with the individual with whom the child(ren) is/are placed are adequate to safeguard the child(ren)'s health and welfare.

JC11a, Item 20  
JC17, Item 14  
JC49, Item 17

The language of the court rule states:

**(C) Pretrial Placement.**

(2) *Criteria.* The court may order placement of the child into foster care if the court finds all of the following:

- (e) Conditions of child custody away from the parent are adequate to safeguard the child's health and welfare.

**MCR 3.965 Preliminary Hearing**

It has been suggested that the language in the orders should be updated to conform to the court rule.

**Should this change be adopted?** (Space below provided for notes)

## Matthew Walker

---

**From:** Kathleen Feeney <kathleen.feeney@kentcountymi.gov>  
**Sent:** Tuesday, August 11, 2015 3:50 PM  
**To:** Court Forms Info  
**Cc:** Elizabeth Shearer  
**Subject:** Comments re: revised and new child protective proceeding forms

1. JC 11a: No. The current form is an affirmative finding that the child is an Indian child. Why would we also need a box stating that the child is not an Indian child? If we do this for other items, our forms will be significantly longer than they are now.
2. JC 11a, 17 and 49(1): No. The current language appears to comply with the statute and is more explicit than MCR 3.965.
3. JC 11b: Yes. A box to dismiss the petition would be fine.
4. It is unclear whether the recommendation would require the court to (a) list each parent's progress, or (b) say whether each parent has made progress or no progress. I would support option (b) but not option (a).
5. JC 19, 76(1): I am not seeing where APPLA-E has been eliminated for children over 16. If I am missing something to that end, then the change should be made. The quoted material only makes clear that APPLA can't be used for children under 16.
6. JC 49: Yes.
7. JC 75: Yes.

Thank you for your consideration.  
KAF

## Matthew Walker

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**From:** Judge Owens <dowens@courts.mi.gov>  
**Sent:** Tuesday, August 25, 2015 4:02 PM  
**To:** Court Forms Info  
**Subject:** Child Protective Proceedings forms comments

JC 11a: No need

JC 11a, 17, 49: Yes. This change will also make it consistent with MCL 712A.13a(9)(e).

JC 11b: Yes

JC19: Yes

JC 19, 76: Yes

JC 49: Yes

JC 75: Yes

Judge Donald S. Owens  
Michigan Court of Appeals

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<p align="center"><b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY</p>	<p align="center"><b>ORDER AFTER PRELIMINARY HEARING (CHILD PROTECTIVE PROCEEDINGS), PAGE 1 ORDER _____ OF _____</b></p>	<p><b>CASE NO. PETITION NO.</b></p>
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Court address

Court telephone no.

1. In the matter of  
name(s), alias(es), DOB

2. Date of hearing: \_\_\_\_\_ Judge/Referee: \_\_\_\_\_ Bar no.

3. Removal date: \_\_\_\_\_ (Specify for each child if different.)

4. Military/nonmilitary affidavit attached.

**THE COURT FINDS:**

5. A petition has been submitted alleging that the above child(ren) come(s) within the provisions of MCL 712A.2(b).

6. The child(ren)  is/are  is not/are not subject to the continuing jurisdiction of another court. Court: \_\_\_\_\_

7.  Notice of hearing was given as required by law.  Notice of proceedings is to be given as required by law.

8.  a. There is probable cause to believe the legal/putative father(s) is/are: (Name each child, his/her father, and whether legal or putative.)

b. The putative father of \_\_\_\_\_ is unknown and cannot be identified.

9. The probable-cause determination was waived by all parties present.

10. There  is  is not probable cause that one or more of the allegations in the petition are true.

11. There is good cause to adjourn the preliminary hearing because \_\_\_\_\_ .  
 Petitioner recommends removal of the child(ren) from the home to assure the immediate safety of the child(ren).

12. There is probable cause the  parent  guardian  legal custodian  other person residing in the child(ren)'s home abused the child(ren). Presence of the alleged abuser in the home  does  does not present a substantial risk of harm to the child(ren)'s life, physical health, or mental well-being and he/she  should  should not be ordered out of the home. (Use form JC 65, Order Removing Alleged Abuser from Child's Home, as appropriate.)

13. The child(ren) has/have not been removed prior to this hearing and an order to take the child(ren) into protective custody is necessary because: (a) the child(ren) is/are at substantial risk of harm or is/are in surroundings that present an imminent risk of harm and the child(ren)'s immediate removal from those surroundings is necessary to protect the child(ren)'s health and safety; (b) the circumstances warrant issuing this order; and (c) no remedy other than protective custody is reasonably available to protect the child(ren). (If this box is checked, contrary to the welfare and reasonable efforts findings must be made. See items 15 and 16.)

(SEE SECOND PAGE)

Do not write below this line - For court use only

<p align="center"><b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY</p>	<p align="center"><b>ORDER AFTER PRELIMINARY HEARING (CHILD PROTECTIVE PROCEEDINGS), PAGE 2 ORDER _____ OF _____</b></p>	<p><b>CASE NO. PETITION NO.</b></p>
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Court address

Court telephone no.

In the matter of

14. The child(ren) is/are Indian as defined in MCR 3.002(12). The petitioner  has  has not given notice of the preliminary hearing as required by MCR 3.920(C)(1).
- The preliminary hearing must be adjourned pending conclusion of a removal hearing required by MCR 3.967.
- The removal hearing required by MCR 3.967 was conducted in conjunction with this hearing (see required findings in item 16).

A qualified expert, \_\_\_\_\_, testified as required by law.

15.  a. Contrary to the welfare findings were made in a prior order.
- b. It is contrary to the welfare of the child(ren) to remain in the home because: (Attach separate sheets as necessary.)

16.  a. Consistent with the circumstances, reasonable efforts to prevent or eliminate removal of the child(ren) from the home were made as determined in a prior order. **OR**
- b. Consistent with the circumstances, reasonable efforts were made to prevent or eliminate removal of the child(ren) from the home. Those efforts include: (Specify below.) **OR**
- c. The child(ren) is/are Indian, and the court finds by clear and convincing evidence and the testimony of a qualified expert witness who has knowledge about the child-rearing practices of the Indian child's tribe, that active efforts  have  have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family. These efforts have proved  unsuccessful,  successful, the continued custody of the child(ren) by the parent or Indian custodian  is  is not likely to result in serious emotional or physical damage to the child(ren), and the child(ren)  should  should not be removed from the home.
- (Specify below.)

The efforts for 16.b. or 16.c. are: (Specify the efforts from 16.b. or 16.c. here. If the child is an Indian child, specify active efforts as defined by MCR 3.002[1] and MCL 712B.3[a].)

- d. Reasonable efforts to prevent or eliminate removal of the child(ren) from the home were not made.

(SEE THIRD PAGE)

<p align="center"><b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY</p>	<p align="center"><b>ORDER AFTER PRELIMINARY HEARING (CHILD PROTECTIVE PROCEEDINGS), PAGE 3</b> ORDER _____ OF _____</p>	<p><b>CASE NO.</b> <b>PETITION NO.</b></p>
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Court address

Court telephone no.

In the matter of

17. a. Reasonable efforts are not required to prevent or eliminate the child(ren)'s removal from the home due to  
 the  mother's  father's subjecting the child(ren) to the aggravated circumstance(s) of \_\_\_\_\_ as provided in section MCL 722.638(1) and (2), and as evidenced by \_\_\_\_\_.

- the  mother's  father's conviction for murder of another child of the parent.
- the  mother's  father's conviction for voluntary manslaughter of another child of the parent.
- the  mother's  father's conviction for aiding or abetting in the murder or manslaughter of another child of the parent, attempting to murder the child(ren) or another child of the parent, or conspiring or soliciting to commit the murder of the child(ren) or another child of the parent.
- the  mother's  father's conviction for felony assault that resulted in serious bodily injury to the child(ren) or another child of the parent.
- the  mother's  father's involuntary termination of parental rights to a sibling of the child(ren).
- the  mother  father being required to register under the Sex Offender Registration Act.

b. Reasonable efforts to preserve and reunify the family to make it possible for the child(ren) to safely return home are  
 not required because the parent subjected the child or another child of the parent to one of the circumstances stated above.

**OR**

still recommended because:

(When item 17 is checked, either complete item 19 below or schedule a permanency planning hearing within 28 days of this determination.)

18.  a. Reasonable efforts shall be made to preserve and reunify the family to make it possible for the child(ren) to safely return home.  
 b. Reasonable efforts shall not be made to preserve and reunify the family because it would be detrimental to the child(ren)'s health and safety.

19. Because reasonable efforts to prevent or eliminate removal or to reunite the child(ren) and family are not required, a permanency planning hearing was conducted. (**Use and attach form JC 19**, Order Following Dispositional Review/Permanency Planning Hearing.)

20. Custody of the child(ren) with the parent/guardian/legal custodian

- a. presents a substantial risk of harm to the child(ren)'s life, physical health, or mental well-being.  
 No provision of service or other arrangement except removal of the child(ren) is reasonably available to adequately safeguard the child(ren) from the risk of harm to the child(ren)'s life, physical health, or mental well-being.  
 Conditions of custody at the placement away from the home and with the individual with whom the child(ren) is/are placed are adequate to safeguard the child(ren)'s health and welfare.

b. does not present a substantial risk of harm to the child(ren)'s life, physical health, or mental well-being.

21. Parenting time with \_\_\_\_\_, even if supervised, may be harmful to the child(ren).

(SEE FOURTH PAGE)

<p align="center"><b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY</p>	<p align="center"><b>ORDER AFTER PRELIMINARY HEARING (CHILD PROTECTIVE PROCEEDINGS), PAGE 4 ORDER _____ OF _____</b></p>	<p><b>CASE NO. PETITION NO.</b></p>
--	--	---

Court address \_\_\_\_\_ Court telephone no. \_\_\_\_\_

In the matter of

**IT IS ORDERED:**

22. The petition  is authorized.  is not authorized.  is not authorized pending resumption of the preliminary hearing.

23. Notice is to be given to the legal/putative father(s) as required by law.  The father was not present and must appear at the next hearing.  The putative father was present at this hearing and shall establish paternity within 14 days.

24. This matter is set for a continued preliminary/removal hearing on \_\_\_\_\_ pursuant to MCR 3.967. The petitioner shall give notice of these proceedings as required by MCR 3.920(C)(1) (use form JC 48).

25. The child(ren)

- a. is/are placed with the Department of Human Services for care and supervision, and
  - i. the parent(s), guardian, or legal custodian shall execute all documents necessary to release confidential information regarding the child(ren) including medical, mental, and educational reports, and shall also, within 7 days, provide the Department of Human Services with the name(s) and address(es) of the medical provider(s) for the child(ren). Any medical provider for the child(ren) shall release the medical records of the child(ren) to the Department of Human Services.
  - ii. if the child(ren) is/are placed in the home of a relative, a home study shall be performed by the Department of Human Services and a copy of the home study submitted to the court not more than 30 days after the placement.
  - iii. upon request, the Department of Human Services shall release to the foster parent the information concerning the child(ren) in accordance with MCL 712A.13a(13).

The child(ren) shall be taken into protective custody. To effect this order, \_\_\_\_\_ is authorized to enter the premises located at \_\_\_\_\_. This authorization to enter the premises and take the child(ren) into protective custody expires \_\_\_\_\_.  
 Enter on LEIN

b. is/are released to \_\_\_\_\_ under the supervision of the Department of Human Services.  The following terms and conditions apply to the parent(s), guardian, or legal custodian:

26. The child(ren) named \_\_\_\_\_ shall have  a psychological evaluation  counseling to determine appropriateness and conditions of parenting time.

27.  a. Parenting time of \_\_\_\_\_ is  unsupervised.  supervised until further order of the court.  
 The Department of Human Services has discretion to allow unsupervised or supervised parenting time by its designee.

b. Parenting time of \_\_\_\_\_ is  unsupervised.  supervised until further order of the court.  
 The Department of Human Services has discretion to allow unsupervised or supervised parenting time by its designee.

c. Parenting time of \_\_\_\_\_ is  unsupervised.  supervised until further order of the court.  
 The Department of Human Services has discretion to allow unsupervised or supervised parenting time by its designee.

d.

(SEE FIFTH PAGE)

<p align="center"><b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY</p>	<p align="center"><b>ORDER AFTER PRELIMINARY HEARING (CHILD PROTECTIVE PROCEEDINGS), PAGE 5 ORDER _____ OF _____</b></p>	<p><b>CASE NO. PETITION NO.</b></p>
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Court address

Court telephone no.

In the matter of

**IT IS ORDERED:** (continued)

28. Until further order of the court, placement shall continue pending  resumption of the preliminary hearing  pretrial  
 trial  disposition on \_\_\_\_\_ .  
Date and time

29. Other:

Recommended by: \_\_\_\_\_  
Referee signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Judge

## CHECKLIST FOR ADVICE OF RIGHTS AND GENERAL PROCEDURE FOR PRELIMINARY HEARING

1.  Determine whether parent(s), guardian, or legal custodian have been notified, are present, and if not present, whether to proceed in their absence.
2.  Determine whether the lawyer-guardian ad litem for the child is present and direct that the lawyer-guardian ad litem for the child receive a copy of the petition.
3.  Determine whether the minor has no father as defined in MCR 3.903(A)(7) and take appropriate action as described in MCR 3.921(D).
4.  If a respondent is present, assure that each respondent has a copy of the petition.
5.  Read the allegations in the petition in open court unless waived by all parties present.
6.  Determine whether the petition should be dismissed or the matter referred to alternate services; otherwise, the preliminary hearing shall continue.
7.  Advise the respondent of the right to the assistance of an attorney.
8.  Advise the respondent of the right to trial on the allegations in the petition and that the trial may be before a referee unless a timely demand for a jury or judge is filed.
9.  Allow the respondent an opportunity to deny or admit allegations and make a statement of explanation.
10.  If the hearing is held by a referee, advise the parties of the right to file a request for review of the referee's recommended findings and conclusions.
11.  Inquire whether the child is subject to the continuing jurisdiction of another Michigan court and, if so, which court.
12.  Inquire if the child is an Indian as defined in MCR 3.002(12), and if so, follow the procedure in MCR 3.965(B)(2) and determine whether to continue with the preliminary hearing.
13.  Unless the preliminary hearing is adjourned, decide whether to authorize the filing of the petition, and if authorized, whether to release the child to a parent, guardian, or legal custodian or whether to place the child out of the home as prescribed by MCR 3.965(C). **If this is the first court order authorizing removal of the child, make findings regarding whether:**
  - **custody of the child with the parent presents a substantial risk of harm to the child's life, physical health, or mental well-being.**
  - **no provision of service or other arrangement except removal of the child is reasonably available to adequately safeguard the child from risk of harm to the child's life, physical health, or mental well-being.**
  - **continuing the child's residence in the home is contrary to the child's welfare.**
  - **consistent with the circumstances, reasonable efforts were made to prevent or eliminate the need for removal of the child.**
  - **conditions of child custody away from the parent are adequate to safeguard the child's health and welfare.**Reasonable efforts findings must be made now or within 60 days of the date of removal. If the child is an Indian, there are additional requirements.
14.  Advise the parent(s) when additional costs or reimbursement may be assessed.
15.  Having ordered placement of the child outside the child's home, inform the parties of the following:
  - a. that the agency has the responsibility to prepare an initial services plan within 30 days after the child's placement.
  - b. the general elements of an initial services plan as required by the rules promulgated pursuant to 1973 PA 116, MCL 722.111 to 722.128, including:
    - the background of the child(ren) and the family;
    - an evaluation of the experiences and problems of the child(ren);
    - a projection of the expected length of stay in foster care; and
    - an identification of specific goals and projected time frames for meeting the goals.
  - c. that participation in an initial services plan is voluntary without a court order.
  - d. that, on motion of a party, the court will review the initial services plan and may modify the plan if it is in the best interests of the child.
16.  Having found the alleged abuser should be ordered out of the home, complete JC 65, Order Removing Alleged Abuser from Child's Home.

<b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	<b>ORDER OF DISPOSITION</b> <b>(CHILD PROTECTIVE PROCEEDINGS), PAGE 1</b> <b>ORDER _____ OF _____</b>	<b>CASE NO.</b> <b>PETITION NO.</b>
--	---	--

Court address

Court telephone no.

1. In the matter of name(s), alias(es), DOB \_\_\_\_\_
2. Date of hearing: \_\_\_\_\_ Judge/Referee: \_\_\_\_\_ Bar no. \_\_\_\_\_
3. Removal date: \_\_\_\_\_ (Specify for each child if different.)
4. An adjudication was held and the child(ren) was/were found to come within the jurisdiction of the court.
5. Release of the parental rights to \_\_\_\_\_ was executed by \_\_\_\_\_  
Name(s) of child(ren) \_\_\_\_\_ pursuant to the adoption code on \_\_\_\_\_  
Name(s) of parent(s) \_\_\_\_\_ Date \_\_\_\_\_

**THE COURT FINDS:**

6. Notice of hearing was given as required by law.
7. The lawyer-guardian ad litem  has  has not complied with the requirements of MCL 712A.17d.
8.  a. There is probable cause to believe the legal/putative father(s) is/are:  
(Name each child, his/her father, and whether legal or putative.)
- b. The putative father of \_\_\_\_\_ is unknown and cannot be identified.
- c. The putative father was notified as required by law and failed to establish paternity within the time set by the court. The putative father waives all rights to further notice, including the right to notice of termination of parental rights and the right to an attorney.
9. In all cases except when all parental rights have been terminated, the court has considered the case service plan and other evidence presented. The findings below are specific to this case and are based upon this hearing, and  the following report(s):

(Identify report[s] and date[s] of report[s].) \_\_\_\_\_

Specific conditions reviewed on the record as required by MCL 712A.18f(4) were

- a. compliance with the case service plan with respect to services provided or offered to the child and his or her parent(s), guardian, or legal custodian and whether the parent(s), guardian, or legal custodian complied with and benefited from those services.
- b. compliance with the case service plan with respect to parenting time with the child and whether parenting time did not occur or was infrequent and the reasons why.
- c. the extent to which the parent(s), guardian, or legal custodian complied with each provision of the case service plan, prior court orders, and any agreement between the parent(s), guardian, or legal custodian and the agency.
- d. likely harm to the child if the child continued to be separated from his or her parent(s), guardian, or legal custodian.
- e. likely harm to the child if the child was returned to his or her parent(s), guardian, or legal custodian.

**NOTE:** If the child(ren) was/were not removed prior to the dispositional hearing and new allegations are made that require removal, a supplemental petition must be prepared and filed and an emergency removal hearing held, whereupon contrary to the welfare and reasonable efforts findings must be made. Use form JC 75. A dispositional review hearing must be held within 14 days after the child(ren) is/are removed. See MCR 3.974(C).

**USE NOTE:** Use this form when a release has been executed pursuant to the adoption code after adjudication and before the dispositional hearing.

(SEE SECOND PAGE)

Do not write below this line - For court use only

<b>STATE OF MICHIGAN</b> <b>JUDICIAL CIRCUIT - FAMILY DIVISION</b> <b>COUNTY</b>	<b>ORDER OF DISPOSITION</b> <b>(CHILD PROTECTIVE PROCEEDINGS), PAGE 2</b> <b>ORDER _____ OF _____</b>	<b>CASE NO.</b> <b>PETITION NO.</b>
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Court address

Court telephone no.

In the matter of

10.  a. Consistent with the circumstances, reasonable efforts to prevent or eliminate removal of the child(ren) from the home were made as determined in a prior order.
- b. Consistent with the circumstances, reasonable efforts were made to prevent or eliminate removal of the child(ren) from the home. Those efforts include: (Specify.)
- c. Reasonable efforts to prevent or eliminate removal of the child(ren) from the home were not made.
- d. Reasonable efforts to prevent or eliminate removal were not required as determined in a prior order.
11. a. Reasonable efforts are not required to prevent or eliminate the child(ren)'s removal from the home due to  
 the  mother  father subjecting the child(ren) to the aggravated circumstance(s) of \_\_\_\_\_ as provided in section MCL 722.638(1) and (2), and as evidenced by \_\_\_\_\_ .
- the  mother's  father's conviction for murder of another child of the parent.
- the  mother's  father's conviction for voluntary manslaughter of another child of the parent.
- the  mother's  father's conviction for aiding or abetting in the murder or manslaughter of another child of the parent, attempting to murder the child(ren) or another child of the parent, or conspiring or soliciting to commit the murder of the child(ren) or another child of the parent.
- the  mother's  father's conviction for felony assault that resulted in serious bodily injury to the child(ren) or another child of the parent.
- the  mother's  father's involuntary termination of parental rights to a sibling of the child(ren).
- the  mother  father being required to register under the Sex Offender Registration Act.
- b. Reasonable efforts to preserve and reunify the family to make it possible for the child(ren) to safely return home are  
 not required because the parent subjected the child or another child of the parent to one of the circumstances stated above.
- OR**
- still recommended because:

(When item 11 is checked, either complete item 13 below or schedule a permanency planning hearing within 28 days of this determination.)

12.  a. Reasonable efforts shall be made to preserve and reunify the family to make it possible for the child(ren) to safely return home.
- b. Reasonable efforts shall not be made to preserve and reunify the family because it would be detrimental to the child(ren)'s health and safety.
- c. Reasonable efforts to preserve and reunify the family were not previously required, but due to a change in circumstances, reasonable efforts are now required. Those reasonable efforts have begun and include: (Specify reasonable efforts, and if applicable, the reasons for return.)

The child(ren) should be released to \_\_\_\_\_ .  
Name(s) of parent(s), guardian, or legal custodian

13. Since reasonable efforts to prevent or eliminate removal or to reunite the child(ren) and family are not required, a permanency planning hearing was conducted. (Use and attach form JC 19, Order Following Dispositional Review/Permanency Planning Hearing.)

(SEE THIRD PAGE)

<b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	<b>ORDER OF DISPOSITION</b> <b>(CHILD PROTECTIVE PROCEEDINGS), PAGE 3</b> ORDER ____ OF ____	<b>CASE NO.</b> <b>PETITION NO.</b>
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Court address

Court telephone no.

In the matter of

14. Custody of the child(ren) with the parent/guardian/legal custodian
- a. presents a substantial risk of harm to the child(ren)'s life, physical health, or mental well-being.
    - No provision of service or other arrangement except removal of the child(ren) is reasonably available to adequately safeguard the child(ren) from the risk of harm to the child(ren)'s life, physical health, or mental well-being.
    - Conditions of custody at the placement away from the home and with the individual with whom the child(ren) is/are placed are adequate to safeguard the child(ren)'s health and welfare.
  - b. does not present a substantial risk of harm to the child(ren)'s life, physical health, or mental well-being.
  - c. are not relevant because the parent(s) released the child(ren) pursuant to the adoption code.

15. Parenting time with \_\_\_\_\_, even if supervised, may be harmful to the child(ren).

**IT IS ORDERED:**

16. \_\_\_\_\_ is warned and the jurisdiction of the court is terminated.  
Name

17. Notice is to be given to the legal/putative father(s) as required by law.  The father was not present and must appear at the next hearing.  The putative father was present at this hearing and shall establish paternity within 14 days.

18. The child(ren) is/are in the temporary custody of this court and

- a. is/are placed with the Department of Human Services for care and supervision, and
  - i. the parent, guardian, or legal custodian shall execute all documents necessary to release confidential information regarding the child(ren), including medical, mental, and educational reports, and shall also, within 7 days, provide the Department of Human Services with the name(s) and address(es) of the medical provider(s) for the child(ren). Any medical provider of the child(ren) shall release the medical records of the child(ren) to the Department of Human Services.
  - ii. if a home study has not yet been completed, then one shall be performed by the Department of Human Services and a copy of the home study submitted to the court not more than 30 days after the placement.
  - iii. upon request, the Department of Human Services shall release to the foster parent the information concerning the child(ren) in accordance with MCL 712A.13a(13).

b. remain home with or is/are released to \_\_\_\_\_ under the supervision of the  
Name(s) of parent(s), guardian, or legal custodian  
 Department of Human Services.  The following terms and conditions apply to the parent(s)/guardian/legal custodian:

c. because the parent(s) released the child(ren) pursuant to the adoption code, the child(ren) is/are

- committed to the Department of Human Services for permanency planning, supervision, care, and placement under MCL 400.203.
- other:  
 A posttermination review hearing will be held \_\_\_\_\_.  
Date

19. While the child(ren) is/are placed out of the home, the friend of the court shall redirect current support due on behalf of the child(ren) to the person with whom the child(ren) is/are placed as long as that person is not receiving foster care maintenance payments. Unpaid child support that charged during the unfunded placement shall also be redirected unless otherwise assigned.

20. The Director of the Michigan Department of Human Services is appointed special guardian to receive any benefits now due or to become due the child(ren) from the government of the United States.

(SEE FOURTH PAGE)

<p align="center"><b>STATE OF MICHIGAN</b>  <b>JUDICIAL CIRCUIT - FAMILY DIVISION</b>  <b>COUNTY</b></p>	<p align="center"><b>ORDER OF DISPOSITION</b>  <b>(CHILD PROTECTIVE PROCEEDINGS), PAGE 4</b>  <b>ORDER _____ OF _____</b></p>	<p><b>CASE NO.</b>  <b>PETITION NO.</b></p>
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Court address

Court telephone no.

In the matter of

**IT IS ORDERED:** (continued)

21.  a. The parent(s), guardian, or legal custodian shall comply with, and benefit from, the case service plan.  In addition,
- b. The parent(s) need not comply with, and benefit from, the case service plan because parental rights were released pursuant to the adoption code.
- c. The parent(s) need not comply with, and benefit from, the case service plan because jurisdiction of the court is terminated.

22.  a. Parenting time of \_\_\_\_\_ is
- unsupervised.  supervised until further order of the court.
- The Department of Human Services has discretion to allow unsupervised or supervised parenting time by its designee.
- b. Parenting time of \_\_\_\_\_ is
- unsupervised.  supervised until further order of the court.
- The Department of Human Services has discretion to allow unsupervised or supervised parenting time by its designee.
- c. Parenting time of \_\_\_\_\_ is
- unsupervised.  supervised until further order of the court.
- The Department of Human Services has discretion to allow unsupervised or supervised parenting time by its designee.
- d.

23. Reimbursement:

24. Other: (Attach separate sheet if needed.) (An order for child support must comply with MCR 3.973[F][5] and MCR 3.211.)

25. Prior orders remain in effect except as modified by this order.

26. Review hearings shall be held as follows:
- (NOTE: The review hearing shall not be delayed beyond the number of days required regardless whether a petition to terminate parental rights or another matter is pending. MCL 712A.19a provides that the permanency planning hearing shall not be delayed beyond 12 months from the date of removal of the child and every 12 months thereafter.)
- dispositional review hearing \_\_\_\_\_  dispositional review hearing \_\_\_\_\_
- dispositional review hearing \_\_\_\_\_  permanency planning hearing \_\_\_\_\_
- The supervising agency shall provide documentation of progress relating to all aspects of the last court-ordered treatment plan, including copies of evaluations and therapy reports and verification of parenting time, not later than 5 business days before the scheduled hearing.

27.  Notice of the next hearing has been provided as required by law.  Notice of the next hearing shall be provided.

Recommended by: \_\_\_\_\_  
Referee signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Judge

<b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION <b>COUNTY</b>	<b>ORDER OF ADJUDICATION</b> <b>(CHILD PROTECTIVE PROCEEDINGS), PAGE 1</b> <b>ORDER _____ OF _____</b>	<b>CASE NO.</b> <b>PETITION NO.</b>
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**Court address** \_\_\_\_\_ **Court telephone no.** \_\_\_\_\_

1. In the matter of  
name(s), alias(es), DOB \_\_\_\_\_
2. Date of hearing: \_\_\_\_\_ Judge/Referee: \_\_\_\_\_ Bar no. \_\_\_\_\_
3. Removal date: \_\_\_\_\_ (Specify for each child if different.)

**THE COURT FINDS:**

4. A petition has been submitted alleging that the above child(ren) come(s) within the provisions of MCL 712A.2(b).
5. The child(ren)  is/are  is not/are not subject to the continuing jurisdiction of \_\_\_\_\_ Court(s)
6.  Notice of hearing was given as required by law.  Notice of proceedings is to be given as required by law.
7.  a. Based on testimony, there is probable cause to believe the legal/putative father(s) is/are:  
(Name each child, his/her father, and whether legal or putative.)  
  
 b. The putative father of \_\_\_\_\_ is unknown and cannot be identified.  
 c. The natural father was notified as required by law and failed to establish paternity within the time set by the court. The natural father waives all rights to further notice, including the right to notice of termination of parental rights and the right to an attorney.
8. The respondent(s) \_\_\_\_\_ Name(s)  
 did not appear  appeared in court in person or by \_\_\_\_\_ Manner of appearance and  
 was/were represented by an attorney.  waived representation by an attorney.
9. The plea by \_\_\_\_\_ Name(s) is knowingly, understandingly, and voluntarily made.
10. After  trial,  admission of plea,  no contest plea, and by  
 a preponderance of the evidence,  clear and convincing evidence,  
 a. there are no statutory grounds to exercise jurisdiction over the child(ren).  
 b. there are statutory grounds to exercise jurisdiction over the child(ren) (MCL 712A.2[b]). The statutory ground(s) is/are:  
 failure to provide, when able to do so, support, education, medical, surgical, or other necessary care for health or morals.  
 substantial risk of harm to mental well-being.  
 abandonment by parents.  
 lack of proper custody or guardianship.  
 an unfit home environment, by reason of neglect, cruelty, drunkenness, criminality, or depravity on the part of a parent, guardian, nonparent adult, or other custodian.  
 failure to comply with a limited guardianship placement plan.  
 failure to comply with a court-structured guardianship plan.  
 when a guardianship is in place, failure to provide support or to regularly visit, contact or communicate with the child(ren) for a period of 2 years, either before or after a guardianship petition was filed and a support order entered.

(SEE SECOND PAGE)

**USE NOTE:** Use of this form is optional when the court conducts the dispositional hearing immediately following adjudication.

Do not write below this line - For court use only

<b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	<b>ORDER OF ADJUDICATION</b> <b>(CHILD PROTECTIVE PROCEEDINGS), PAGE 2</b> ORDER _____ OF _____	<b>CASE NO.</b> <b>PETITION NO.</b>
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Court address

Court telephone no.

In the matter of

11. Specific findings of facts and law are  on the record.  in the attached written opinion.  as noted below.

12.  a. Contrary to the welfare findings were made in a prior order.  
 b. It is contrary to the welfare of the child(ren) to remain in the home because: (Attach separate sheets as necessary.)

13.  a. Consistent with the circumstances, reasonable efforts to prevent or eliminate removal of the child(ren) from the home were made as determined in a prior order. **OR**  
 b. Consistent with the circumstances, reasonable efforts were made to prevent or eliminate removal of the child(ren) from the home. Those efforts include: (Specify below.) **OR**  
 c. The child(ren) is/are Indian, and the court finds by clear and convincing evidence and the testimony of a qualified expert witness who has knowledge about the child-rearing practices of the Indian child's tribe, that active efforts  have  have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family. These efforts have proved  unsuccessful,  successful, the continued custody of the child(ren) by the parent or Indian custodian  is  is not likely to result in serious emotional or physical damage to the child(ren), and the child(ren)  should  should not be removed from the home.  
 (Specify below.)

The efforts for 13.b. or 13.c. are: (Specify the efforts from 13.b. or 13.c. here. If the child is an Indian child, specify active efforts as defined by MCR 3.002[1] and MCL 712B.3[a].)

d. Reasonable efforts to prevent or eliminate removal of the child(ren) from the home were not made.  
 e. Reasonable efforts to prevent or eliminate removal of the child(ren) from the home were not required as determined in a prior order.

**NOTE:** If the child(ren) were not removed before adjudication and the court determines at trial that removal is necessary, the court must make the required findings regarding contrary to the welfare and reasonable efforts to prevent removal.

(SEE THIRD PAGE)

<b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	<b>ORDER OF ADJUDICATION</b> <b>(CHILD PROTECTIVE PROCEEDINGS), PAGE 3</b> ORDER _____ OF _____	<b>CASE NO.</b> <b>PETITION NO.</b>
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Court address

Court telephone no.

In the matter of

14. a. Reasonable efforts are not required to prevent or eliminate the child(ren)'s removal from the home due to  
 the  mother  father subjecting the child(ren) to the aggravated circumstance(s) of \_\_\_\_\_ as provided in section MCL 722.638(1) and (2), and as evidenced

by \_\_\_\_\_

- the  mother's  father's conviction for murder of another child of the parent.
- the  mother's  father's conviction for voluntary manslaughter of another child of the parent.
- the  mother's  father's conviction for aiding or abetting in the murder or manslaughter of another child of the parent, attempting to murder the child(ren) or another child of the parent, or conspiring or soliciting to commit the murder of the child(ren) or another child of the parent.
- the  mother's  father's conviction for felony assault that resulted in serious bodily injury to the child(ren) or another child of the parent.
- the  mother's  father's involuntary termination of parental rights to a sibling of the child(ren).
- the  mother  father being required to register under the Sex Offender Registration Act.

b. Reasonable efforts to preserve and reunify the family to make it possible for the child(ren) to safely return home are  
 not required because the parent subjected the child or another child of the parent to one of the circumstances stated above.

**OR**

still recommended because:

(When item 14 is checked, either complete item 16 below or schedule a permanency planning hearing within 28 days of this determination.)

15.  a. Reasonable efforts shall be made to preserve and reunify the family to make it possible for the child(ren) to safely return home.

b. Reasonable efforts shall not be made to preserve and reunify the family because it would be detrimental to the child(ren)'s health and safety.

16. Because reasonable efforts to prevent or eliminate removal or to reunite the child(ren) and family are not required, a permanency planning hearing was conducted. (Use and attach form JC 19, Order Following Dispositional Review/Permanency Planning Hearing.)

17. Custody of the child(ren) with the parent/guardian/legal custodian

- a. presents a substantial risk of harm to the child(ren)'s life, physical health, or mental well-being.
  - No provision of service or other arrangement except removal of the child(ren) is reasonably available to adequately safeguard the child(ren) from the risk of harm to the child(ren)'s life, physical health, or mental well-being.
  - Conditions of custody at the placement away from the home and with the individual with whom the child(ren) is/are placed are adequate to safeguard the child(ren)'s health and welfare.

b. does not present a substantial risk of harm to the child(ren)'s life, physical health, or mental well-being.

18. Parenting time with \_\_\_\_\_, even if supervised, may be harmful to the child(ren).

(SEE FOURTH PAGE)

<p align="center"><b>STATE OF MICHIGAN</b>  <b>JUDICIAL CIRCUIT - FAMILY DIVISION</b>  <b>COUNTY</b></p>	<p align="center"><b>ORDER OF ADJUDICATION</b>  <b>(CHILD PROTECTIVE PROCEEDINGS), PAGE 4</b>  <b>ORDER ____ OF ____</b></p>	<p><b>CASE NO.</b>  <b>PETITION NO.</b></p>
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Court address

Court telephone no.

In the matter of

**IT IS ORDERED:**

- 19. The petition is dismissed, the child(ren) is/are released to \_\_\_\_\_ , and the jurisdiction of this court is terminated except that the court reserves the right to enforce orders for reimbursement of court costs, attorney fees, and other assessments that have accrued up to and including the date of this order.
- 20. Notice is to be given to the legal/putative father(s) as required by law.  The father was not present and must appear at the next hearing.  The putative father was present at this hearing and shall establish paternity within 14 days.
- 21. The child(ren)
  - a. is/are placed with the Department of Human Services for care and supervision, and
    - i. the parent, guardian, or legal custodian shall execute all documents necessary to release confidential information regarding the child(ren), including medical, mental, and educational reports, and shall also, within 7 days, provide the Department of Human Services with the name(s) and address(es) of the medical provider(s) for the child(ren). Any medical provider of the child(ren) shall release the medical records of the child(ren) to the Department of Human Services.
    - ii. if the child(ren) is/are placed in the home of a relative, a home study shall be performed by the Department of Human Services and a copy of the home study submitted to the court not more than 30 days after the placement.
    - iii. upon request, the Department of Human Services shall release to the foster parent the information concerning the child(ren) in accordance with MCL 712A.13a(13).
  - The child(ren) shall be taken into protective custody. To effect this order, \_\_\_\_\_ is authorized to enter the premises located at \_\_\_\_\_. This authorization to enter the premises and take the child(ren) into protective custody expires \_\_\_\_\_.  
 Enter on LEIN
  - b. remain home with or is/are released to \_\_\_\_\_ under the supervision of \_\_\_\_\_  
Name(s) of parent(s), guardian, or legal custodian  
the Department of Human Services.  The following terms and conditions apply to the parent/guardian/legal custodian:
- 22. While the child(ren) is/are placed out of the home, the friend of the court shall redirect current support due on behalf of the child(ren) to the person with whom the child(ren) is/are placed as long as that person is not receiving foster care maintenance payments. Unpaid child support that charged during the unfunded placement shall also be redirected unless otherwise assigned.
- 23. The child(ren) named \_\_\_\_\_ shall have  a psychological evaluation  counseling to determine appropriateness and conditions of parenting time.
- 24.  a. Parenting time of \_\_\_\_\_ is
  - unsupervised.  supervised until further order of the court.
  - the Department of Human Services has discretion to allow unsupervised or supervised parenting time by its designee.
- b. Parenting time of \_\_\_\_\_ is
  - unsupervised.  supervised until further order of the court.
  - the Department of Human Services has discretion to allow unsupervised or supervised parenting time by its designee.
- c. Parenting time of \_\_\_\_\_ is
  - unsupervised.  supervised until further order of the court.
  - the Department of Human Services has discretion to allow unsupervised or supervised parenting time by its designee.
- d.

(SEE FIFTH PAGE)

<b>STATE OF MICHIGAN</b> <b>JUDICIAL CIRCUIT - FAMILY DIVISION</b> <b>COUNTY</b>	<b>ORDER OF ADJUDICATION</b> <b>(CHILD PROTECTIVE PROCEEDINGS), PAGE 5</b> <b>ORDER _____ OF _____</b>	<b>CASE NO.</b> <b>PETITION NO.</b>
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Court address

Court telephone no.

In the matter of

**IT IS ORDERED:** (continued)

25. Placement shall continue pending disposition on \_\_\_\_\_ .  
Date and time

26. Other:

27. Prior orders remain in effect except as modified by this order.

Recommended by: \_\_\_\_\_  
Referee signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Judge

**MCL 722.638 - AGGRAVATED CIRCUMSTANCES**

- (1) The Department shall submit a petition for authorization by the court under Section 2(b) of Chapter XIIA of 1939 PA 288, MCL 712A.2, if one or more of the following apply:
  - (a) The Department determines that a parent, guardian, or legal custodian, or a person who is 18 years of age or older and who resides for any length of time in the child's home, has abused the child or a sibling of the child and the abuse included one or more of the following:
    - (i) Abandonment of a young child.
    - (ii) Criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate.
    - (iii) Battering, torture, or other severe physical abuse.
    - (iv) Loss or serious impairment of an organ or limb.
    - (v) Life threatening injury.
    - (vi) Murder or attempted murder.
  - (b) The Department determines that there is risk of harm to the child and either of the following is true:
    - (i) The parent's rights to another child were terminated as a result of proceedings under Section 2(b) of Chapter XIIA of 1939 PA 288, MCL 712A.2, or a similar law of another state.
    - (ii) The parent's rights to another child were voluntarily terminated following the initiation of proceedings under Section 2(b) of Chapter XIIA of 1939 PA 288, MCL 712A.2, or a similar law of another state.
- (2) In a petition submitted as required by subsection (1), if a parent is a suspected perpetrator or is suspected of placing the child at an unreasonable risk of harm due to the parent's failure to take reasonable steps to intervene to eliminate that risk, the Department of Human Services shall include a request for termination of parental rights at the initial dispositional hearing as authorized under Section 19b of Chapter XIIA of 1939 PA 288, MCL 712A.19b.

Michigan Compiled Laws Annotated  
 Michigan Court Rules of 1985  
 Chapter 3. Special Proceedings and Actions  
 Subchapter 3.900. Proceedings Involving Juveniles (Refs & Annos)

MI Rules MCR 3.965

RULE 3.965. PRELIMINARY HEARING

Currentness

**(A) Time for Preliminary Hearing.**

(1) *Child in Protective Custody.* The preliminary hearing must commence no later than 24 hours after the child has been taken into protective custody, excluding Sundays and holidays, as defined by [MCR 8.110\(D\)\(2\)](#), unless adjourned for good cause shown, or the child must be released.

(2) *Severely Physically Injured or Sexually Abused Child.* When the Department of Human Services submits a petition in cases in which the child has been severely physically injured, as that term is defined in [MCL 722.628\(3\)\(c\)](#), or sexually abused, and subrule (A)(1) does not apply, the preliminary hearing must commence no later than 24 hours after the agency submits a petition or on the next business day following the submission of the petition.

**(B) Procedure.**

(1) The court must determine if the parent, guardian, or legal custodian has been notified, and if the lawyer-guardian ad litem for the child is present. The preliminary hearing may be adjourned for the purpose of securing the appearance of an attorney, parent, guardian, or legal custodian or may be conducted in the absence of the parent, guardian, or legal custodian if notice has been given or if the court finds that a reasonable attempt to give notice was made.

(2) The court must inquire if the child or either parent is a member of an Indian tribe. If the court knows or has reason to know the child is an Indian child, the court must determine the identity of the child's tribe and, if the child was taken into protective custody pursuant to [MCR 3.963\(A\)](#) or the petition requests removal of the child, follow the procedures set forth in [MCR 3.967](#). If necessary, the court may adjourn the preliminary hearing pending the conclusion of the removal hearing. A removal hearing may be held in conjunction with the preliminary hearing if all necessary parties have been notified as required by [MCR 3.905](#), there are no objections by the parties to do so, and at least one qualified expert witness is present to provide testimony.

(3) The child's lawyer-guardian ad litem must be present to represent the child at the preliminary hearing. The court may make temporary orders for the protection of the child pending the appearance of an attorney or pending the completion of the preliminary hearing. The court must direct that the lawyer-guardian ad litem for the child receive a copy of the petition.

(4) If the respondent is present, the court must assure that the respondent has a copy of the petition. The court must read the allegations in the petition in open court, unless waived.

(5) The court shall determine if the petition should be dismissed or the matter referred to alternate services. If the court so determines the court must release the child. Otherwise, the court must continue the hearing.

(6) The court must advise the respondent of the right to the assistance of an attorney at the preliminary hearing and any subsequent hearing pursuant to [MCR 3.915\(B\)\(1\)\(a\)](#).

(7) The court must advise the respondent of the right to trial on the allegations in the petition and that the trial may be before a referee unless a demand for a jury or judge is filed pursuant to [MCR 3.911](#) or [3.912](#).

(8) The court must advise a nonrespondent parent of his or her right to seek placement of his or her children in his or her home.

(9) The court shall allow the respondent an opportunity to deny or admit the allegations and make a statement of explanation.

(10) The court must inquire whether the child is subject to the continuing jurisdiction of another court and, if so, which court.

(11) The court may adjourn the hearing for up to 14 days to secure the attendance of witnesses or for other good cause shown. If the court knows or has reason to know the child is an Indian, the court may adjourn the hearing for up to 21 days to ensure proper notice to the tribe or Secretary of the Interior as required by [MCR 3.920\(C\)\(1\)](#). If the preliminary hearing is adjourned, the court may make temporary orders for the placement of the child when necessary to assure the immediate safety of the child, pending the completion of the preliminary hearing and subject to subrule (C), and as applicable, [MCR 3.967](#).

(12) Unless the preliminary hearing is adjourned, the court must decide whether to authorize the filing of the petition and, if authorized, whether the child should remain in the home, be returned home, or be placed in foster care pending trial. The court may authorize the filing of the petition upon a showing of probable cause, unless waived, that one or more of the allegations in the petition are true and fall within [MCL 712A.2\(b\)](#). The Michigan Rules of Evidence do not apply, other than those with respect to privileges, except to the extent that such privileges are abrogated by [MCL 722.631](#).

(13) If the court authorizes the filing of the petition, the court:

(a) may release the child to a parent, guardian, or legal custodian and may order such reasonable terms and conditions believed necessary to protect the physical health or mental well-being of the child; or

(b) may order placement of the child after making the determinations specified in subrule (C), if those determinations have not previously been made. If the child is an Indian child, the child must be placed in descending order of preference with:

(i) a member of the child's extended family,

(ii) a foster home licensed, approved, or specified by the child's tribe,

(iii) an Indian foster family licensed or approved by the department,

(iv) an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the child's needs.

The court may order another placement for good cause shown in accordance with [MCL 712B.23\(3\)-\(5\)](#). If the Indian child's tribe has established a different order of preference than the order prescribed above, placement shall follow that tribe's order of preference as long as the placement is the least restrictive setting appropriate to the particular needs of the child, as provided in [MCL 712B.23\(6\)](#). The standards to be applied in meeting the preference requirements above shall be the prevailing social and cultural standards of the Indian community in which the parent or extended family resides or with which the parent or extended family members maintain social and cultural ties.

(14) The court must inquire of the parent, guardian, or legal custodian regarding the identity of relatives of the child who might be available to provide care. If the father of the child has not been identified, the court must inquire of the mother regarding the identity and whereabouts of the father.

### **(C) Pretrial Placement.**

(1) *Placement; Proofs.* If the child was not released under subrule (B), the court shall receive evidence, unless waived, to establish that the criteria for placement set forth in subrule 3.965(C)(2) are present. The respondent shall be given an opportunity to cross-examine witnesses, to subpoena witnesses, and to offer proofs to counter the admitted evidence.

(2) *Criteria.* The court may order placement of the child into foster care if the court finds all of the following:

(a) Custody of the child with the parent presents a substantial risk of harm to the child's life, physical health, or mental well-being.

(b) No provision of service or other arrangement except removal of the child is reasonably available to adequately safeguard the child from the risk as described in subrule (A).

(c) Continuing the child's residence in the home is contrary to the child's welfare.

(d) Consistent with the circumstances, reasonable efforts were made to prevent or eliminate the need for removal of the child.

(e) Conditions of child custody away from the parent are adequate to safeguard the child's health and welfare.

(3) *Contrary to the Welfare Findings.* Contrary to the welfare findings must be made. If placement is ordered, the court must make a statement of findings, in writing or on the record, explicitly including the finding that it is contrary to the welfare of the child to remain at home and the reasons supporting that finding. If the "contrary to the welfare of the child" finding is placed on the record and not in a written statement of findings, it must be capable of being transcribed. The findings may be made on the basis of hearsay evidence that possesses adequate indicia of trustworthiness. If continuing the child's residence in the home

is contrary to the welfare of the child, the court shall not return the child to the home, but shall order the child placed in the most family-like setting available consistent with the child's needs.

(4) *Reasonable Efforts Findings.* Reasonable efforts findings must be made. In making the reasonable efforts determination under this subrule, the child's health and safety must be of paramount concern to the court. When the court has placed a child with someone other than the custodial parent, guardian, or legal custodian, the court must determine whether reasonable efforts to prevent the removal of the child have been made or that reasonable efforts to prevent removal are not required. The court must make this determination at the earliest possible time, but no later than 60 days from the date of removal, and must state the factual basis for the determination in the court order. Nunc pro tunc orders or affidavits are not acceptable. Reasonable efforts to prevent a child's removal from the home are not required if a court of competent jurisdiction has determined that

(a) the parent has subjected the child to aggravated circumstances as listed in sections 18(1) and (2) of the Child Protection Law, [MCL 722.638\(1\) and \(2\)](#); or

(b) the parent has been convicted of 1 or more of the following:

(i) murder of another child of the parent,

(ii) voluntary manslaughter of another child of the parent,

(iii) aiding or abetting, attempting, conspiring, or soliciting to commit such a murder or such a voluntary manslaughter, or

(iv) a felony assault that results in serious bodily injury to the child or another child of the parent; or

(c) parental rights of the parent with respect to a sibling have been terminated involuntarily; or

(d) the parent is required to register under the Sex Offender Registration Act.

(5) *Record Checks; Home Study.* If the child has been placed in a relative's home,

(a) the court may order the Family Independence Agency to report the results of a criminal record check and central registry clearance of the residents of the home to the court before, or within 7 days after, the placement, and

(b) the court must order the Family Independence Agency to perform a home study with a copy to be submitted to the court not more than 30 days after the placement.

(6) *No Right to Bail.* No one has the right to post bail in a protective proceeding for the release of a child in the custody of the court.

(7) *Parenting Time or Visitation.*

(a) Unless the court suspends parenting time pursuant to [MCL 712A.19b\(4\)](#), or unless the child has a guardian or legal custodian, the court must permit each parent frequent parenting time with a child in placement unless parenting time, even if supervised, may be harmful to the child.

(b) If the child was living with a guardian or legal custodian, the court must determine what, if any, visitation will be permitted with the guardian or legal custodian.

(8) *Medical Information.* Unless the court has previously ordered the release of medical information, the order placing the child in foster care must include:

(a) an order that the child's parent, guardian, or legal custodian provide the supervising agency with the name and address of each of the child's medical providers, and

(b) an order that each of the child's medical providers release the child's medical records.

**(D) Advice; Initial Service Plan.** If placement is ordered, the court must, orally or in writing, inform the parties:

(1) that the agency designated to care and supervise the child will prepare an initial service plan no later than 30 days after the placement;

(2) that participation in the initial service plan is voluntary unless otherwise ordered by the court;

(3) that the general elements of an initial service plan include:

(a) the background of the child and the family,

(b) an evaluation of the experiences and problems of the child,

(c) a projection of the expected length of stay in foster care, and

(d) an identification of specific goals and projected time frames for meeting the goals;

(4) that, on motion of a party, the court will review the initial service plan and may modify the plan if it is in the best interests of the child; and

(5) that the case may be reviewed for concurrent planning.

The court shall direct the agency to identify, locate, and consult with relatives to determine if placement with a relative would be in the child's best interests, as required by [MCL 722.954a\(2\)](#). In a case to which [MCL 712A.18f\(6\)](#) applies, the court shall require the agency to provide the name and address of the child's attending physician of record or primary care physician.

### Credits

[Adopted February 4, 2003, effective May 1, 2003, 467 Mich; amended May 1, 2003, 467 Mich; February 25, 2004, 469 Mich; October 24, 2006, effective January 1, 2007, 477 Mich; May 31, 2007, effective September 1, 2007, 478 Mich; April 14, 2009, effective July 1, 2009, 483 Mich; February 2, 2010, effective May 1, 2010, 485 Mich; March 20, 2013, effective immediately pending public comment, 493 Mich; June 5, 2013, effective September 1, 2013, 494 Mich; September 5, 2013, effective immediately, 495 Mich; October 2, 2013, effective immediately, 495 Mich; March 25, 2015, effective immediately pending public comment, 497 Mich.]

### Editors' Notes

#### COMMENTS

##### Publisher's Note

Construction of references to family independence agency as references to department of human services, see [M.C.L.A. § 400.226](#).

##### Note

MCR 3.965 corresponds to former Rule 5.965.

A new subrule (A)(2) is added, providing that in the case of a petition involving a child who has been severely physically injured or sexually abused, the preliminary hearing must begin no later than 24 hours after submission of the petition, or the next business day.

Subrule (B), regarding procedure at the hearing, is substantially rewritten. Subrule (B)(1) permits the hearing to go forward in the absence of the parent, guardian, or legal custodian if notice has been given or if a reasonable attempt to do so was made.

Other provisions include requirements that a copy of the petition be provided to various persons [subrules (B)(2)-(3)]; that inquiries be made regarding whether the child is subject to the jurisdiction of another court and about American Indian tribe membership [subrules (B)(8)-(9)]; and providing for temporary orders for placement of the child where the hearing is adjourned [Subrule (10)].

Subrule (B)(11) provides that the Rules of Evidence do not apply, except those regarding privileges. However, the privilege provision is qualified by incorporation of [MCL 722.631](#), which abrogates certain privileges.

Subrule (B)(12) provides that if a court authorizes the petition, it may order the child released to the parent, guardian, or legal custodian or, on making appropriate findings, the court may order placement of the child.

Subrules (D) and (C) are substantially rewritten. A number of the changes are designed to comply with the requirements of [42 USC 671](#), and associated regulations. [45 CFR 1356.21](#).

Subrule (C)(2) would add a requirement that if the child is removed from the home, the child is to be placed in the most family-like setting available, consistent with the child's needs. See [MCL 712A.13a\(10\)](#).

Subrule (C)(4) provides for a criminal record check and central registry clearance, as well as a Family Independence Agency home study, if the child is placed in a relative's home.

Subrule (C)(6)(b) provides for visitation with a guardian or legal custodian with whom the child has been living.

Subrule (C)(7) requires that an order placing a child in foster care direct the child's parent or custodian to provide the agency with the name and address of the child's medical providers, and the order is to direct the providers to release medical records.

New subrule (D) includes a number of provisions regarding the determination whether reasonable efforts have been made to avoid removing the child from the home. Exceptions are created where the parent has subjected the child to certain aggravating circumstances listed in [MCL 712A.19b\(3\)\(k\)](#) or committed certain serious crimes.

#### Staff Comment to 2003 Amendment

The April 30, 2003, order makes corrections to a number of the rules governing proceedings regarding juveniles that had been adopted on February 4, 2003. The changes are effective May 1, corresponding to the effective date of the February 4 amendments. In addition to these changes, a number of corrections of punctuation and capitalization and changes in the Notes that accompanied the rules have been made and will appear in the published version of the rules.

The amendments of [MCR 3.903\(D\)\(8\)\(m\)](#), [6.903\(H\)\(16\)](#), [6.931\(E\)\(3\)](#), and [6.933\(C\)\(1\)](#) conform the rules to 2002 PA 665, which changed the amounts of controlled substances required for certain violations. See [MCL 333.7401\(2\)\(a\)\(i\)](#), [333.7403\(2\)\(a\)\(i\)](#). [MCR 3.933\(C\)\(1\)](#) is also modified in light of *People v Valentin*, 457 Mich 1 (1998).

The amendment of [MCR 3.935\(B\)\(1\)](#) corrects the inadvertent omission of references to guardians and legal custodians.

The amendments of [MCR 3.922\(E\)\(1\)\(c\)](#), [3.943\(A\)](#), [3.945\(A\)\(1\)](#), [3.965\(E\)\(1\)](#), and [3.972\(C\)\(2\)\(c\)](#) correct minor errors in wording.

The amendment of [MCR 3.977\(G\)](#) deletes the word "hearing" in the reference to progress reviews. Under [MCR 3.974\(A\)\(1\)](#), progress reviews do not require hearings.

The amendment of [MCR 3.980\(B\)](#) and [\(C\)](#) revise the provisions on removal of American Indian children from the home to clarify the distinction between emergency removals and removals after hearing.

The amendments of [MCR 3.982\(A\)](#), [6.903\(I\)-\(L\)](#) and [6.937\(A\)](#) correct cross-reference, citation and numbering errors.

#### Staff Comment to 2004 Amendment

The February 25, 2004, amendments of [MCR 3.915](#), [3.965](#), [3.975](#), [3.976](#) and [3.977](#), effective immediately, are based on recommendations from the Family Independence Agency and Supreme Court Adoption Work Group.

The amendment of [MCR 3.915\(B\)\(2\)\(a\)](#) is designed to enforce the statutory requirement in [MCL 712A.17d](#) that lawyers-guardians ad litem for children meet with their clients before each hearing.

The amendment of [MCR 3.915\(D\)\(2\)](#) addresses the substitution of lawyers-guardians ad litem.

The amendments of MCR 3.965 (B)(13) and (E) require the court to ask parents, guardians, or legal custodians to identify relatives who might be available to care for the child. The amendment to subsection (E) also requires the court to ask parents, guardians, or legal custodians to identify the child's treating physician in certain circumstances. See [MCL 712A.18f\(6\)](#).

The amendments of [MCR 3.975\(B\)](#) and [MCR 3.976\(C\)](#) require the court to notify interested parties that they may provide input at dispositional review and permanency planning hearings.

The amendments of [MCR 3.976\(B\)\(3\)](#) and [\(E\)\(2\)](#) encourage early holding of permanency planning hearings and early filing of petitions for termination of parental rights, where appropriate.

[MCR 3.977\(C\)\(2\)](#) is a new provision that requires courts to give child welfare cases priority in scheduling.

#### Revised Staff Comment to 2006 Amendment

The amendment of MCR 3.965(B)(11) more accurately reflects the decisions made at the preliminary hearing in Family Division courts and discourages the practice of the court's placing a child in a specific foster care facility. "Foster care" is defined in [MCR 3.903\(C\)\(4\)](#) as including placement with a relative and specifies that the court has given the Family Independence Agency (now the Department of Human Services) placement and care responsibility.

The amendments of MCR 3.965(C)(3) require the court to make not only a "contrary to the welfare" finding, but also to include the reasons for that finding.

The amendments of MCR 3.965(D)(2) conform the rule language to that of the recent amendments of the "reasonable efforts" language in [MCL 712A.19a](#), as amended by 2004 PA 473, and make its language consistent with the proposed "reasonable efforts" language in [MCR 3.976\(B\)\(1\)](#). The amendments add language to clarify that a court can determine that reasonable efforts to prevent removal have been made or can determine that reasonable efforts to prevent removal are not required due to aggravated circumstances. [Revision from order dated May 31, 2007.]

#### Staff Comment to 2007 Amendment

An additional amendment of MCR 3.965(D)(2)(b)(iii) mirrors the provision in the federal Social Security Act at [42 USC 671\(a\)\(15\)\(D\)\(ii\)\(III\)](#), which was suggested in a letter from the Department of Health and Human Services. For the full text of the letter, please see the staff comment of [MCR 3.976](#).

#### Staff Comment to 2009 Amendment

The amendments of Rules 3.901, 3.903, 3.921, 3.965, 3.975, 3.976, 3.977, and 3.978, and new [rule 3.979 of the Michigan Court Rules](#) reflect the enactment of 2008 PA 199-203.

#### Staff Comment to 2010 Amendment

These amendments incorporate provisions of the Indian Child Welfare Act into specific provisions within various rules relating to child protective proceedings and juvenile status offenses. The language is designed to make the rules reflect a more integrated approach to addressing issues specific to Indian children.

[MCR 3.002\(1\)\(c\)](#) defines "preadoptive placement" to mean the "temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but before or in lieu of adoptive placement, and ..." The phrase "in lieu of adoptive placement" is not intended to mean that it is permissible to leave a child in foster care indefinitely, in violation of [MCL 712A.19b\(6\)](#) or [\(7\)](#) or [45 CFR 1355.20](#), [45 CFR 1356.21](#), or [45 CFR 1356.50](#). Rather, it addresses situations where the

parental rights to a child have been terminated and there is no permanency plan for adoption of the child. One example is when the child has been placed with a juvenile guardian and the guardianship is subsequently revoked. In this situation, jurisdiction over the child pursuant to [MCL 712A.2\(b\)](#) will be reinstated and the child is placed in foster care.

[MCR 3.002\(1\)](#): The definition of “child custody proceeding” is intended to apply the Indian Child Welfare Act to delinquency proceedings if an “Indian child” is charged with a so-called status offense in violation of [MCL 712A.2\(a\)\(2\)-\(4\)](#) or (d). Delinquency proceedings involving an Indian child charged with any other non-status offense are generally not subject to the Indian Child Welfare Act; however, if the initial investigation or subsequent review of a non-status delinquency case reveals that the Indian child involved suffers from child abuse or neglect, a separate child protective proceeding may be initiated, which would be subject to the Indian Child Welfare Act.

The amendment of [MCR 3.905\(C\)\(1\)](#) states that a court shall consider guidelines established by the Bureau of Indian Affairs (BIA) in determining whether good cause not to transfer exists (Guidelines for State Courts; Indian Child Custody Proceedings, 44 Fed Reg No 228, 67590-67592, C.2-C.4. [November 26, 1979]). Some examples of good cause are that the Indian tribe does not have a tribal court or that the Indian child is over 12 years old and objects to the transfer. For additional examples of good cause and relevant case law, see the BIA guidelines cited above and A Practical Guide to the Indian Child Welfare Act. (Native American Rights Fund, A Practical Guide to the Indian Child Welfare Act [Boulder, CO: Native American Rights Fund, 2007], 7.15 and 7.16, p 60.)

Staff Comment to March 2013 Amendment

This proposal incorporates provisions of the newly enacted Michigan Indian Family Preservation Act into specific provisions within various rules relating to child protective proceedings and juvenile status offenses.

Staff Comment to September 1, 2013 Amendment

The changes of [MCR 3.913](#), [3.963](#), [3.965](#), and [3.974](#) incorporate the statutory changes enacted in 2012 Public Act 163.

Staff Comment to September 5, 2013 Amendment

These amendments reflect changes that correct minor technical errors that have occurred in drafting or the changes respond to recent adopted rule revisions, which occasionally inadvertently create incorrect cross-references in other rules.

Staff Comment to October 2013 Amendment

The amendment of [MCR 3.965](#) allows a slightly longer adjournment period in cases that involve Indian children to accommodate the statutory provisions that require notice to be provided at least ten days before the hearing.

Staff Comment to 2015 Amendment

The amendments of [MCR 3.903](#), [3.920](#), [3.961](#), and [3.965](#) were prompted by the Michigan Supreme Court's decision in *In re Sanders*, 495 Mich 394 (2014), to provide clarification and procedural provisions consistent with the Court's holding in that case.

MI Rules [MCR 3.965](#), MI R SPEC P [MCR 3.965](#)  
Current with amendments received through 7/15/2015

6. A new federal law, the Preventing Sex Trafficking and Strengthening Families Act (Public Law 113-183) was enacted on September 29, 2014, and goes into effect on September 29, 2015. It appears to eliminate APPLA as a permanency goal for children under the age of 16.

The federal law adds the language:

(1) IN GENERAL.—Section 475(5)(C)(i) (42 U.S.C. 675(5)(C)(i)) is amended by inserting “only in the case of a child who has attained 16 years of age” before “(in cases where”.

**PL 113-183 § 112; 128 Stat 1926**

**This amends 42 USC 675(5)(c)(i) to say:**

(5) The term “case review system” means a procedure for assuring that—

(C) with respect to each such child,

(i) procedural safeguards will be applied, among other things, to assure each child in foster care under the supervision of the State of a permanency hearing to be held, in a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, no later than 12 months after the date the child is considered to have entered foster care (as determined under subparagraph (F)) (and not less frequently than every 12 months thereafter during the continuation of foster care), which hearing shall determine the permanency plan for the child that includes whether, and if applicable when, the child will be returned to the parent, placed for adoption and the State will file a petition for termination of parental rights, or referred for legal guardianship, or (only in the case of a child who has attained 16 years of age in cases where the State agency has documented to the State court a compelling reason for determining that it would not be in the best interests of the child to return home, be referred for termination of parental rights, or be placed for adoption, with a fit and willing relative, or with a legal guardian) placed in another planned permanent living arrangement, in the case of a child who will not be returned to the parent, the hearing shall consider in-State and out-of-State placement options, and, in the case of a child described in subparagraph (A)(ii), the hearing shall determine whether the out-of-State placement continues to be appropriate and in the best interests of the child, and, in the case of a child who has attained age 16, the services needed to assist the child to make the transition from foster care to independent living;

In light of this legislation, Michigan DHHS is considering a policy change that would eliminate the distinction between APPLA and APPLA-E.

On JC19 Order Following Dispositional Review/Permanency Planning Hearing, and JC76 Order after Post-Termination Review/Permanency Planning Hearing, it has been suggested that the distinction between APPLA and APPLA-E be removed and a clarification or finding be added stating the child is 16 years or older when APPLA is used.

The current form states:

Reasonable efforts  have  have not been made to finalize the court-approved permanency plan of  
 e.  i. placement in another planned permanent living arrangement (APPLA) for the child(ren) named \_\_\_\_\_  
 ii. placement in another planned permanent living arrangement - emancipation (APPLA-E) for the child(ren) named \_\_\_\_\_  
due to the compelling reasons that (Specify the compelling reasons for another planned permanent living arrangement for i. and ii., as appropriate, by entering the language that corresponds to the number[s] from the list on page 5.)

**JC19, Item 17**  
**JC76, Item 9**

The suggestion is to modify the section to something like the following:

Reasonable efforts  have  have not been made to finalize the court-approved permanency plan of  
 e. placement in another planned permanent living arrangement (APPLA) for the child(ren) age 16 or older named: \_\_\_\_\_  
due to the compelling reasons that (Specify the compelling reasons for another planned permanent living arrangement for as appropriate by entering the language that corresponds to the number[s] from the list on page 5.)

**Should the suggestion be adopted?** (Space below provided for notes)

## Matthew Walker

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**From:** Kathleen Feeney <kathleen.feeney@kentcountymi.gov>  
**Sent:** Tuesday, August 11, 2015 3:50 PM  
**To:** Court Forms Info  
**Cc:** Elizabeth Shearer  
**Subject:** Comments re: revised and new child protective proceeding forms

1. JC 11a: No. The current form is an affirmative finding that the child is an Indian child. Why would we also need a box stating that the child is not an Indian child? If we do this for other items, our forms will be significantly longer than they are now.
2. JC 11a, 17 and 49(1): No. The current language appears to comply with the statute and is more explicit than MCR 3.965.
3. JC 11b: Yes. A box to dismiss the petition would be fine.
4. It is unclear whether the recommendation would require the court to (a) list each parent's progress, or (b) say whether each parent has made progress or no progress. I would support option (b) but not option (a).
5. JC 19, 76(1): I am not seeing where APPLA-E has been eliminated for children over 16. If I am missing something to that end, then the change should be made. The quoted material only makes clear that APPLA can't be used for children under 16.
6. JC 49: Yes.
7. JC 75: Yes.

Thank you for your consideration.  
KAF

## Matthew Walker

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**From:** Judge Owens <dowens@courts.mi.gov>  
**Sent:** Tuesday, August 25, 2015 4:02 PM  
**To:** Court Forms Info  
**Subject:** Child Protective Proceedings forms comments

JC 11a: No need

JC 11a, 17, 49: Yes. This change will also make it consistent with MCL 712A.13a(9)(e).

JC 11b: Yes

JC19: Yes

JC 19, 76: Yes

JC 49: Yes

JC 75: Yes

Judge Donald S. Owens  
Michigan Court of Appeals

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<b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	<b>ORDER FOLLOWING DISPOSITIONAL REVIEW/          PERMANENCY PLANNING HEARING          (CHILD PROTECTIVE PROCEEDINGS), PAGE 1          ORDER _____ OF _____</b>	<b>CASE NO.          PETITION NO.</b>
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Court address \_\_\_\_\_

Court telephone no. \_\_\_\_\_

1. In the matter of  
name(s), alias(es), DOB \_\_\_\_\_

2. Date of hearing: \_\_\_\_\_ Judge/Referee: \_\_\_\_\_ Bar no. \_\_\_\_\_

3. Removal date: \_\_\_\_\_ (Specify for each child if different.)

Last permanency planning hearing date: \_\_\_\_\_ (Specify for each child if different.)

4. As of the last order, the child(ren) named above was/were in the protective/temporary custody of the court, and  
 remained in the home.  was/were placed with the Department of Human Services for care and supervision.

5. Notice of hearing for the  review  permanency planning  combined review and permanency planning  
hearing was served as required by law.  Notice of proceedings is to be given as required by law.

6. This review hearing involves an Indian child in which removal has been requested or in which the child was removed from the  
home pursuant to an emergency removal hearing conducted in accordance with MCR 3.974(C). The removal hearing  
 was conducted in conjunction with the emergency removal hearing.  is scheduled for \_\_\_\_\_ .

**THE COURT FINDS:**

7. The lawyer-guardian ad litem  has  has not \_\_\_\_\_ complied with the requirements of MCL 712A.17d.

8.  a. There is probable cause to believe the legal/putative father(s) is/are:  
(Name each child, his/her father, and whether legal or putative.)

b. The putative father of \_\_\_\_\_ is unknown and cannot be identified.

c. The putative father was notified as required by law and failed to establish paternity within the time set by the court. The putative  
father waives all rights to further notice, including the right to notice of termination of parental rights and the right to an attorney.

9. The court has considered the case service plan and other evidence presented. The findings below are specific to this case and  
are based upon this hearing, and  the following report(s): \_\_\_\_\_  
identify report(s) and date(s) of report(s)

Specific conditions reviewed on the record as required by MCL 712A.19(6) were

- a. compliance with the case service plan with respect to services provided or offered to the child and his or her parent(s), guardian,  
or legal custodian and whether the parent(s), guardian, or legal custodian complied with and benefited from those services.
- b. compliance with the case service plan with respect to parenting time with the child and whether parenting time did not occur  
or was infrequent and the reasons why.
- c. the extent to which the parent(s), guardian, or legal custodian complied with each provision of the case service plan, prior court  
orders, and any agreement between the parent(s), guardian, or legal custodian and the agency.
- d. likely harm to the child if the child continued to be separated from his or her parent(s), guardian, or legal custodian.
- e. likely harm to the child if the child was returned to his or her parent(s), guardian, or legal custodian.

**NOTE:** If the child(ren) was/were not removed prior to the dispositional review or permanency planning hearing and new allegations  
are made that require removal, a supplemental petition must be prepared and filed and an emergency removal hearing held, whereupon  
contrary to the welfare and reasonable efforts findings must be made. Use form JC 75. See MCR 3.974(B) and (C). The emergency  
removal hearing can be combined with a dispositional review hearing.

(SEE SECOND PAGE)

**USE NOTE:** Do not use this form for  
review or permanency planning hearings  
after termination. Use form JC 76 instead.

Do not write below this line - For court use only

<b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	<b>ORDER FOLLOWING DISPOSITIONAL REVIEW/                  PERMANENCY PLANNING HEARING                  (CHILD PROTECTIVE PROCEEDINGS), PAGE 2                  ORDER _____ OF _____</b>	<b>CASE NO.                  PETITION NO.</b>
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Court address

Court telephone no.

In the matter of

10. Returning the child(ren) to the parent(s), guardian, or legal custodian  would  would not cause a substantial risk of harm to the child(ren)'s life, physical health, or mental well-being.

11. The child(ren) should not be returned to the parent(s), guardian, or legal custodian. (State reasons for a. or b. in the space below.)

a. The agency  should  should not initiate proceedings to terminate the parental rights to the child(ren) because:

b. The child has been in foster care for 15 months of the most recent 22 months, and the agency

should initiate proceedings to terminate the parental rights to the child(ren).

should not initiate proceedings to terminate the parental rights to the child(ren) for the following compelling reasons:

12.  a. Reasonable efforts  were  were not made to preserve and reunify the family to make it possible for the child(ren) to safely return to the child(ren)'s home. (Specify reasonable efforts below, and if applicable, the reasons for return.)

1) Reasonable efforts for reunification should be continued.

2) Those reasonable efforts were successful and the child(ren) should be released to

\_\_\_\_\_  
 Name(s) of parent(s), guardian, or legal custodian

The reasonable efforts include: (Specify.)

b. Reasonable efforts to preserve and reunify the family to make it possible for the child(ren) to safely return to the child(ren)'s home are not required based on a prior order.

13. Progress toward alleviating or mitigating the conditions that caused the child(ren) to be placed or to remain in temporary foster care  was  was not made in accordance with MCL 712A.19(7).

14. The child(ren)'s continued placement  is necessary and appropriate and is meeting the child(ren)'s needs.

is no longer necessary or appropriate.

15. The child(ren) is/are Indian as defined in MCR 3.002(12), and placement  remains  does not remain appropriate and  does  does not comply with MCR 3.967(F).

(SEE THIRD PAGE)

<b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	<b>ORDER FOLLOWING DISPOSITIONAL REVIEW/          PERMANENCY PLANNING HEARING          (CHILD PROTECTIVE PROCEEDINGS), PAGE 3          ORDER ____ OF ____</b>	<b>CASE NO.          PETITION NO.</b>
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Court address

Court telephone no.

In the matter of

16. The child(ren) is/are Indian and the court finds that active efforts  have  have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family.

17. \*Reasonable efforts  have  have not been made to finalize the court-approved permanency plan of

- a. return to the parent for the child(ren) named \_\_\_\_\_.
- b. adoption for the child(ren) named \_\_\_\_\_.
- c. legal guardianship for the child(ren) named \_\_\_\_\_.
- d. placement with a fit and willing relative for the child(ren) named \_\_\_\_\_.
- e.  i. placement in another planned permanent living arrangement (APPLA) for the child(ren) named \_\_\_\_\_

ii. placement in another planned permanent living arrangement - emancipation (APPLA-E) for the child(ren) named \_\_\_\_\_

due to the compelling reasons that (Specify the compelling reasons for another planned permanent living arrangement for i. and ii., as appropriate, by entering the language that corresponds to the number[s] from the list on page 5.)

The reasonable efforts made to finalize the court-approved permanency plan identified above include:  
 (Specify the permanency plan for each child and the reasonable efforts made toward finalizing that plan.)

Because adoption is the court-approved permanency plan, the Department of Human Services shall be ordered to initiate proceedings to terminate parental rights.

18. The permanency planning goal in item 17  is appropriate.  is no longer appropriate and shall be: \_\_\_\_\_.

19. The appointment of a juvenile guardian is in the best interest of the child(ren) named above in item 17.c.  The court has received and considered the information required by MCR 3.979(A)(1), and the proposed guardian should be appointed.

20. Parenting time with \_\_\_\_\_, even if supervised, may be harmful to the child(ren).

21. A juvenile guardian was appointed and jurisdiction over \_\_\_\_\_ pursuant to MCL 712A.2(b) should be terminated. (This finding is considered at the first review hearing after the appointment.)

22. A juvenile guardianship for \_\_\_\_\_ was revoked pursuant to MCR 3.979(F), and this hearing is held pursuant to MCR 3.979(F)(7).

**NOTE:** \*MCL 712A.19a provides that these reasonable efforts findings must be made within 12 months from when the child was removed from his/her home and every 12 months thereafter.

(SEE FOURTH PAGE)

<b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	<b>ORDER FOLLOWING DISPOSITIONAL REVIEW/                  PERMANENCY PLANNING HEARING                  (CHILD PROTECTIVE PROCEEDINGS), PAGE 4</b> ORDER ____ OF ____	<b>CASE NO.                  PETITION NO.</b>
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Court address

Court telephone no.

In the matter of

**IT IS ORDERED:**

- 23. Notice is to be given to the legal/putative father(s) as required by law.  The father was not present and must appear at the next hearing.  The putative father was present at this hearing and shall establish paternity within 14 days.
- 24. The child(ren) is/are continued in the protective/temporary custody of this court, and (Check only a, b, c, or d.)
  - a. is/are placed with the Department of Human Services for care and supervision, and
    - i. the parent, guardian, or legal custodian shall execute all documents necessary to release confidential information regarding the child(ren), including medical, mental, and educational reports, and shall also, within 7 days, provide the Department of Human Services with the name(s) and address(es) of the medical provider(s) for the child(ren). Any medical provider of the child(ren) shall release the medical records of the child(ren) to the department.
    - ii. if a home study has not yet been completed, then one shall be performed by the Department of Human Services and a copy of the home study submitted to the court not more than 30 days after the placement.
    - iii. upon request, the Department of Human Services shall release to the foster parent the information concerning the child(ren) in accordance with MCL 712A.13a(15).
  - b. remain home with or is/are released to \_\_\_\_\_ under the supervision of the Department of Human Services.  The following terms and conditions apply to the parent(s) guardian/legal custodian:
  - c. the current placement with the Department of Human Services shall continue. The department shall
    - i. conduct a criminal record check and central registry clearance of the residents of the home of the proposed juvenile guardian and submit the results to the court within 7 days.
    - ii. perform a home study with a copy submitted to the court within 28 days, unless a home study has been performed within the immediately preceding 365 days of this order, in which case, a copy of that home study shall be submitted to the court.
  - d. placed under guardianship pursuant to MCR 3.979(B). (See separate order, form JC 91.)
- 25. While the child(ren) is/are placed out of the home, the friend of the court shall redirect current support due on behalf of the child(ren) to the person with whom the child(ren) is/are placed as long as that person is not receiving foster care maintenance payments. Unpaid child support that charged during the unfunded placement shall also be redirected unless otherwise assigned.
- 26. The Department of Human Services shall comply with MCR 3.967(F).
- 27. The Department of Human Services shall initiate proceedings to terminate parental rights to the child(ren) no later than 28 days from the date of this hearing.
- 28.  a. The parent(s), guardian, or legal custodian shall comply with, and benefit from, the case service plan.  In addition,
  - b. The parent(s) need not comply with, and benefit from, the case service plan because parental rights were released pursuant to the adoption code.
  - c. The parent(s) need not comply with, and benefit from, the case service plan because jurisdiction of the court is terminated.
- 29.  a. Parenting time of \_\_\_\_\_ is
  - unsupervised.  supervised until further order of the court.
  - The Department of Human Services has discretion to allow unsupervised or supervised parenting time by its designee.
- b. Parenting time of \_\_\_\_\_ is
  - unsupervised.  supervised until further order of the court.
  - The Department of Human Services has discretion to allow unsupervised or supervised parenting time by its designee.
- c. Parenting time of \_\_\_\_\_ is
  - unsupervised.  supervised until further order of the court.
  - The Department of Human Services has discretion to allow unsupervised or supervised parenting time by its designee.
- d.

(SEE FIFTH PAGE)

STATE OF MICHIGAN JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	ORDER FOLLOWING DISPOSITIONAL REVIEW/ PERMANENCY PLANNING HEARING (CHILD PROTECTIVE PROCEEDINGS), PAGE 5 ORDER _____ OF _____	CASE NO. PETITION NO.
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Court address

Court telephone no.

In the matter of

**IT IS ORDERED:** (continued)

30. Jurisdiction of this court is terminated. The court reserves the right to enforce payments of reimbursement that have accrued up to and including the date of this order. The child(ren) is/are released to \_\_\_\_\_ .

31. Previous reimbursement orders shall continue.

32. Other: (Attach separate sheet.)

33. Prior orders remain in effect except as modified in this order.

34. Review hearings shall be held as follows:

(NOTE: The review hearing shall not be delayed beyond the number of days required regardless whether a petition to terminate parental rights or another matter is pending. MCL 712A.19a provides that the permanency planning hearing shall not be delayed beyond 12 months from the date of removal of the child and every 12 months thereafter.)

dispositional review hearing \_\_\_\_\_  permanency planning hearing \_\_\_\_\_

dispositional review hearing to terminate jurisdiction pursuant to MCR 3.979(C) \_\_\_\_\_

The supervising agency shall provide documentation of progress relating to all aspects of the last court-ordered treatment plan, including copies of evaluations and therapy reports and verification of parenting time, not later than 5 business days before the scheduled hearing.

35. A hearing to appoint the juvenile guardian pursuant to MCR 3.979(B) shall be held \_\_\_\_\_ .

36.  Notice of the next hearing has been provided as required by law.  Notice of the next hearing shall be provided.

Recommended by: \_\_\_\_\_  
Referee signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Judge

**The following are examples of compelling reasons for a permanency plan other than return to parent, legal guardianship, placement with a fit and willing relative, or adoption.**

1. No relative has been identified who is appropriate or available to assume the permanent custody of the child.
2. The current caregiver is not an adoptive resource.
3. The child has a significant attachment to the parent(s), and it is in the child's best interests that it be preserved through parenting time and contact.
4. Reasonable efforts to recruit an adoptive home have been unsuccessful.
5. The child does not want to be adopted and is of an age where due consideration must be given to his/her wishes.
6. It is contrary to the child's best interests to break the child's attachment to the current caregivers.
7. The current caregiver is committed to providing a permanent placement for the child.
8. The placement allows the siblings to remain together.
9. The child's special needs can best be met in this placement.
10. The child wants to remain in the current placement, which is only available as foster care.
11. The placement is preparing the child for transition into independent living (specify the services being provided to the child to assist with transition such as referral to an independent living skills program, enrollment in a vocational program, referral for a mentor, continued out-of-home placement in foster care beyond age 18 to allow the child to complete secondary school, placement in a resource that provides on-site training for independent living, and other similar services).
12. The child comes under the Indian Child Welfare Act and Michigan Indian Family Preservation Act and the child's tribe recommends permanent placement in long-term foster care.
13. Other (specify in the findings in item 17.e).

<b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	<b>ORDER AFTER POSTTERMINATION REVIEW/          PERMANENCY PLANNING HEARING          (CHILD PROTECTIVE PROCEEDINGS), PAGE 1          ORDER ____ OF ____</b>	<b>CASE NO.          PETITION NO.</b>
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Court address

Court telephone no.

1. In the matter of  
name(s), alias(es), DOB \_\_\_\_\_
2. Date of hearing: \_\_\_\_\_ Judge/Referee: \_\_\_\_\_ Bar no. \_\_\_\_\_
3. Last permanency planning hearing date: \_\_\_\_\_ (Specify for each child if different.)
4. Parental rights to the child(ren) named above were previously terminated.
5. Notice of hearing for the  review  permanency planning  combined review and permanency planning hearing was served as required by law.
6. The court has considered the permanency plan and other evidence presented. The findings below are specific to this case and are based upon this hearing, and  the following report(s): \_\_\_\_\_  
identify report(s) and date(s) of report(s)

**THE COURT FINDS:**

7. A  review  permanency planning  combined review and permanency planning hearing was conducted.
  8. The lawyer-guardian ad litem  has  has not complied with the requirements of MCL 712A.17d.
  9. Reasonable efforts  have  have not been made to finalize the court-approved permanency plan of
    - a. adoption for the child(ren) named \_\_\_\_\_ .
    - b. legal guardianship for the child(ren) named \_\_\_\_\_ .
    - c. placement with a fit and willing relative for the child(ren) named \_\_\_\_\_ .
    - d.  i. placement in another planned permanent living arrangement (APPLA) for the child(ren) named \_\_\_\_\_ .
    - ii. placement in another planned permanent living arrangement - emancipation (APPLA-E) for the child(ren) named \_\_\_\_\_ .
- due to the compelling reasons that (Specify the compelling reasons for another planned permanent living arrangement for i. and ii., as appropriate, by entering the language that corresponds to the number[s] from the list on page 2.)

The reasonable efforts made to finalize the court-approved permanency plan identified above include:  
 (Specify the permanency plan for each child and the reasonable efforts made toward finalizing that plan.)

10. The permanency planning goal in item 9  is appropriate.  is no longer appropriate and shall be: \_\_\_\_\_ .
11. Progress toward the child(ren)'s adoption or other permanent placement  was  was not made in a timely manner.
12. The child(ren)'s continued placement  is necessary and appropriate and is meeting the child(ren)'s needs.  is no longer necessary or appropriate.
13. The appointment of a juvenile guardian is in the best interest of the child(ren) named above in item 9.b.  The court has received and considered the information required by MCR 3.979(A)(1) and (3) and the proposed guardian should be appointed.
14. A juvenile guardian was appointed and jurisdiction over \_\_\_\_\_ pursuant to MCL 712A.2(b) should be terminated. (This finding is considered at the first review hearing after the appointment.)
15. A juvenile guardianship for \_\_\_\_\_ was revoked pursuant to MCR 3.979(F), and this hearing is held pursuant to MCR 3.979(F)(7).  The child(ren) was/were committed to the Department of Human Services for permanency planning, supervision, care, and placement under MCL 400.203.

(SEE SECOND PAGE)

**USE NOTE:**

Use this form for posttermination review hearings, posttermination permanency planning hearings, or a combination of both in accordance with MCL 712A.19c.

Do not write below this line - For court use only

<b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	<b>ORDER AFTER POSTTERMINATION REVIEW/          PERMANENCY PLANNING HEARING          (CHILD PROTECTIVE PROCEEDINGS), PAGE 2</b> ORDER ____ OF ____	<b>CASE NO.          PETITION NO.</b>
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Court address

Court telephone no.

In the matter of

**IT IS ORDERED:**

- 16. The child(ren)'s commitment to the Department of Human Services for permanency planning, supervision, care, and placement under MCL 400.203 continues.
- 17. The child(ren)'s commitment to the Department of Human Services for permanency planning, supervision, care, and placement under MCL 400.203 continues and the department shall, for the child(ren) named in item 9.b,
  - a. conduct a criminal record check and central registry clearance of the residents of the home of the proposed juvenile guardian and submit the results to the court within 7 days.
  - b. perform a home study with a copy submitted to the court within 28 days, unless a home study has been performed within the immediately preceding 365 days of this order, in which case, a copy of that study shall be submitted to the court.
  - c. seek the written consent for the appointment of the proposed juvenile guardian from the superintendent of the Michigan Children's Institute, to be filed with the court within 28 days.
- 18. The child(ren) shall be placed under juvenile guardianship pursuant to MCR 3.979(B). (See separate order, form JC 91.)
- 19. The Department of Human Services shall make reasonable efforts to finalize the permanency plan for each child.
- 20. The child(ren) has/have been adopted and the jurisdiction of this court is terminated.
- 21. The jurisdiction of this court is terminated because of the child(ren)'s age(s).
- 22. The jurisdiction of this court is terminated pursuant to MCL 712A.19c(9) and MCR 3.979(C).
- 23. Other:
- 24. Review hearings shall be held as follows: (NOTE: The review hearing shall not be delayed beyond the number of days required regardless whether another matter is pending. MCL 712A.19a provides that the permanency planning hearing shall not be delayed beyond 12 months from the date of removal of the child and every 12 months thereafter.)
  - posttermination review hearing \_\_\_\_\_
  - permanency planning hearing \_\_\_\_\_
  - dispositional review hearing to terminate jurisdiction pursuant to MCR 3.979(C) \_\_\_\_\_
 The supervising agency shall provide documentation of progress relating to all aspects of the last court-ordered treatment plan, including copies of evaluations and therapy reports and verification of parenting time not later than 5 business days before the scheduled hearing.
- 25. A hearing to appoint the juvenile guardian pursuant to MCR 3.979(B) shall be held \_\_\_\_\_ .  
(no later than 35 days)
- 26.  Notice of the next hearing has been provided as required by law.  Notice of the next hearing shall be provided.

Recommended by: \_\_\_\_\_  
Referee signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Judge

**The following are examples of compelling reasons for a permanency plan other than return to parent, legal guardianship, placement with a fit and willing relative, or adoption.**

1. No relative has been identified who is appropriate or available to assume the permanent custody of the child.
2. The current caregiver is not an adoptive resource.
3. The child has a significant attachment to the parent(s), and it is in the child's best interests that it be preserved through parenting time and contact.
4. Reasonable efforts to recruit an adoptive home have been unsuccessful.
5. The child does not want to be adopted and is of an age where due consideration must be given to his/her wishes.
6. It is contrary to the child's best interests to break the child's attachment to the current caregivers.
7. The current caregiver is committed to providing a permanent placement for the child.
8. The placement allows the siblings to remain together.
9. The child's special needs can best be met in this placement.
10. The child wants to remain in the current placement, which is only available as foster care.
11. The placement is preparing the child for transition into independent living (specify the services being provided to the child to assist with transition such as referral to an independent living skills program, enrollment in a vocational program, referral for a mentor, continued out-of-home placement in foster care beyond age 18 to allow the child to complete secondary school, placement in a resource that provides on-site training for independent living, and other similar services).
12. The child is under the Indian Child Welfare Act, and the child's tribe recommends permanent placement in long-term foster care.
13. Other (specify in the findings in item 9.d).

7. Effective September 1, 2015, MCR 3.963, 3.966, and 3.974 were amended to clarify the procedure regarding physical custody of a child. The amendments effectively state that if a child is removed from a parent before adjudication, the preliminary hearing procedure (MCR 3.965) should be followed. If a child is removed from a parent after adjudication, the change of placement or emergency removal procedure (MCR 3.974) should be followed. The amended and current rules are attached.

It has been suggested that JC75 Order Following Emergency Removal Hearing should be modified to include the following changes resulting from the court rule amendment:

- A. The references to MCR 3.974(B)(1) should be updated to MCR 3.974(C)(1).
- B. Checkboxes should be added underneath the title of the form indicating whether the removal was conducted preadjudication or postadjudication.

**Should this change be adopted?** (Space below provided for notes)

## Matthew Walker

---

**From:** Kathleen Feeney <kathleen.feeney@kentcountymi.gov>  
**Sent:** Tuesday, August 11, 2015 3:50 PM  
**To:** Court Forms Info  
**Cc:** Elizabeth Shearer  
**Subject:** Comments re: revised and new child protective proceeding forms

1. JC 11a: No. The current form is an affirmative finding that the child is an Indian child. Why would we also need a box stating that the child is not an Indian child? If we do this for other items, our forms will be significantly longer than they are now.
2. JC 11a, 17 and 49(1): No. The current language appears to comply with the statute and is more explicit than MCR 3.965.
3. JC 11b: Yes. A box to dismiss the petition would be fine.
4. It is unclear whether the recommendation would require the court to (a) list each parent's progress, or (b) say whether each parent has made progress or no progress. I would support option (b) but not option (a).
5. JC 19, 76(1): I am not seeing where APPLA-E has been eliminated for children over 16. If I am missing something to that end, then the change should be made. The quoted material only makes clear that APPLA can't be used for children under 16.
6. JC 49: Yes.
7. JC 75: Yes.

Thank you for your consideration.  
KAF

## Matthew Walker

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**From:** Judge Owens <dowens@courts.mi.gov>  
**Sent:** Tuesday, August 25, 2015 4:02 PM  
**To:** Court Forms Info  
**Subject:** Child Protective Proceedings forms comments

JC 11a: No need

JC 11a, 17, 49: Yes. This change will also make it consistent with MCL 712A.13a(9)(e).

JC 11b: Yes

JC19: Yes

JC 19, 76: Yes

JC 49: Yes

JC 75: Yes

Judge Donald S. Owens  
Michigan Court of Appeals

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Approved, SCAO

<b>STATE OF MICHIGAN</b> <b>JUDICIAL CIRCUIT - FAMILY DIVISION</b> <b>COUNTY</b>	<b>ORDER FOLLOWING</b> <b>EMERGENCY REMOVAL HEARING</b> <b>(CHILD PROTECTIVE PROCEEDINGS), PAGE 1</b> <b>ORDER ____ OF ____</b>	<b>CASE NO.</b> <b>PETITION NO.</b>
--	--	--

Court address

Court telephone no.

1. In the matter of  
name(s), alias(es), DOB

2. Date of hearing: \_\_\_\_\_ Judge/Referee: \_\_\_\_\_  
Bar no.

**THE COURT FINDS:**

- 3. The court ordered the protective custody of the child(ren) on \_\_\_\_\_ (form JC 05b).  
Date
- 4. This emergency removal hearing is held pursuant to MCR 3.974(B)(3).
- 5. The parent(s), guardian, or legal custodian were present and/or attempts were made to secure the presence of each parent, guardian, or legal custodian.
- 6. The lawyer-guardian ad litem for the child(ren) was present.
- 7. The child(ren) is/are Indian as defined in MCR 3.002(12). The petitioner  has  has not given notice of the preliminary hearing as required by MCR 3.920(C)(1).
  - The preliminary hearing must be adjourned pending conclusion of a removal hearing required by MCR 3.967.
  - The removal hearing required by MCR 3.967 was conducted in conjunction with this hearing (see required findings in item 10).

A qualified expert, \_\_\_\_\_, testified as required by law.  
Name

- 8.  a. Taking the child(ren) into protective custody was necessary to protect the health, safety, or welfare of the child(ren), and it  is  is not necessary that removal continue pending the dispositional review hearing.  Contrary to the welfare findings were made in the order authorizing the emergency removal (form JC 05b).
  - b. The child(ren) has/have not been removed prior to this hearing and an order to take the child(ren) into protective custody is necessary. Under MCL 712A.2(b) and MCR 3.974(B)(1) there is reasonable cause to believe that: (i) the child(ren) is/are at substantial risk of harm or is/are in surroundings that present an imminent risk of harm and the child(ren)'s immediate removal from those surroundings is necessary to protect the child(ren)'s health and safety; (ii) the circumstances warrant issuing this order; (iii) consistent with the circumstances, reasonable efforts were made to prevent or eliminate the need for removal of the child(ren) as stated in item 10; (iv) no remedy other than protective custody is reasonably available to protect the child(ren); and (v) continuing to reside in the home is contrary to the child(ren)'s welfare because: (Attach separate sheets as necessary.)
- c. Taking the child(ren) into protective custody is not necessary.
- 9. The parent(s), guardian, or legal custodian from whom the child(ren) was/were removed has/have received a written statement of the reasons for the removal and has/have been advised of his/her/their rights in compliance with MCR 3.974(B).

(SEE SECOND PAGE)

Do not write below this line - For court use only

STATE OF MICHIGAN JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	ORDER FOLLOWING EMERGENCY REMOVAL HEARING (CHILD PROTECTIVE PROCEEDINGS), PAGE 2 ORDER ____ OF ____	CASE NO. PETITION NO.
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Court address

Court telephone no.

In the matter of

10.  a. Consistent with the circumstances, reasonable efforts to prevent or eliminate removal of the child(ren) from the home were made as determined in the order authorizing the emergency removal (form JC 05b). **OR**
- b. Consistent with the circumstances, reasonable efforts were made to prevent or eliminate removal of the child(ren) from the home. The efforts include: (Specify below.) **OR**
- c. The child(ren) is/are Indian, and the court finds by clear and convincing evidence and the testimony of a qualified expert witness who has knowledge about the child-rearing practices of the Indian child's tribe, that active efforts
- have  have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family. These efforts have proved  unsuccessful,  successful, the continued custody of the child(ren) by the parent or Indian custodian  is  is not likely to result in serious emotional or physical damage to the child(ren), and the child(ren)  should  should not be removed from the home.

(Specify below.)

The efforts for 10.b. or 10.c. are: (Specify the efforts from 10.b. or 10.c. here. If the child is an Indian Child, specify active efforts as defined by MCR 3.002[1] and MCL 712B.3[a].)

d. Reasonable efforts to prevent or eliminate removal of the child(ren) from the home were not made.

11. a. Reasonable efforts are not required to prevent or eliminate the child(ren)'s removal from the home due to  the  mother  father subjecting the child(ren) to the aggravated circumstance(s) of \_\_\_\_\_ as provided in section MCL 722.638(1) and (2), and as evidenced

by \_\_\_\_\_ .

- the  mother's  father's conviction for murder of another child of the parent.
- the  mother's  father's conviction for voluntary manslaughter of another child of the parent.
- the  mother's  father's conviction for aiding or abetting in the murder or manslaughter of another child of the parent, attempting to murder the child(ren) or another child of the parent, or conspiring or soliciting to commit the murder of the child(ren) or another child of the parent.
- the  mother's  father's conviction for felony assault that resulted in serious bodily injury to the child(ren) or another child of the parent.
- the  mother's  father's involuntary termination of parental rights to a sibling of the child(ren).
- the  mother  father being required to register under the Sex Offender Registration Act.

b. Reasonable efforts to preserve and reunify the family to make it possible for the child(ren) to safely return home are  not required because the parent subjected the child or another child of the parent to one of the circumstances stated above.

**OR**

still recommended because:

(When item 11 is checked, either complete item 13 below or schedule a permanency planning hearing within 28 days of this determination.)

(SEE THIRD PAGE)

<b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	<b>ORDER FOLLOWING                  EMERGENCY REMOVAL HEARING                  (CHILD PROTECTIVE PROCEEDINGS), PAGE 3                  ORDER _____ OF _____</b>	<b>CASE NO.                  PETITION NO.</b>
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Court address

Court telephone no.

In the matter of

- 12.  a. Reasonable efforts shall be made to preserve and reunify the family to make it possible for the child(ren) to safely return home.
- b. Reasonable efforts shall not be made to preserve and reunify the family because it would be detrimental to the child(ren)'s health and safety.
- 13. Because reasonable efforts to prevent or eliminate removal or to reunite the child(ren) and family are not required, a permanency planning hearing was conducted. **(Use and attach form JC 19, Order Following Dispositional Review/Permanency Planning Hearing.)**
- 14. Custody of the child(ren) with the parent/guardian/legal custodian
  - a. presents a substantial risk of harm to the child(ren)'s life, physical health, or mental well-being.
    - No provision of service or other arrangement except removal of the child(ren) is reasonably available to adequately safeguard the child(ren) from the risk of harm to the child(ren)'s life, physical health, or mental well-being.
    - Conditions of custody at the placement away from the home and with the individual with whom the child(ren) is/are placed are adequate to safeguard the child(ren)'s health and welfare.
  - b. does not present a substantial risk of harm to the child(ren)'s life, physical health, or mental well-being.
- 15. Parenting time with \_\_\_\_\_, even if supervised, may be harmful to the child(ren).

**IT IS ORDERED:**

- 16. The child(ren)
  - a. is/are placed with the Department of Human Services for care and supervision, and
    - i. the parent(s), guardian, or legal custodian shall execute all documents necessary to release confidential information regarding the child(ren) including medical, mental, and educational reports, and shall also, within 7 days, provide the Department of Human Services with the name(s) and address(es) of the medical provider(s) for the child(ren). Any medical provider for the child(ren) shall release the medical records of the child(ren) to the department.
    - ii. if the child(ren) is/are placed in the home of a relative, a home study shall be performed by the Department of Human Services and a copy of the home study submitted to the court not more than 30 days after the placement.
    - iii. upon request, the Department of Human Services shall release to the foster parent the information concerning the child(ren) in accordance with MCL 712A.13a(13).
  - The child(ren) shall be taken into protective custody. To effect this order, \_\_\_\_\_ is authorized to enter the premises located at \_\_\_\_\_. This authorization to enter the premises and take the child(ren) into protective custody expires \_\_\_\_\_.  
 Enter on LEIN
  - b. is/are released to \_\_\_\_\_ under the supervision of the  
 Name(s) of parent(s), guardian, or legal custodian  
 Department of Human Services.  The following terms and conditions apply to the parent(s), guardian, or legal custodian:
- 17. The child(ren) named \_\_\_\_\_ shall have  a psychological evaluation  counseling to determine appropriateness and conditions of parenting time.

(SEE FOURTH PAGE)

Approved, SCAO

<b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	<b>ORDER FOLLOWING          EMERGENCY REMOVAL HEARING          (CHILD PROTECTIVE PROCEEDINGS), PAGE 4          ORDER _____ OF _____</b>	<b>CASE NO.          PETITION NO.</b>
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Court address

Court telephone no.

In the matter of

**IT IS ORDERED:** (continued)

- 18.  a. Parenting time of \_\_\_\_\_ is
  - unsupervised.  supervised until further order of the court.
  - The Department of Human Services has discretion to allow unsupervised or supervised parenting time by its designee.
- b. Parenting time of \_\_\_\_\_ is
  - unsupervised.  supervised until further order of the court.
  - The Department of Human Services has discretion to allow unsupervised or supervised parenting time by its designee.
- c. Parenting time of \_\_\_\_\_ is
  - unsupervised.  supervised until further order of the court.
  - The Department of Human Services has discretion to allow unsupervised or supervised parenting time by its designee.
- d.

19. This matter is set for a dispositional review hearing before \_\_\_\_\_  
Name

on \_\_\_\_\_ . (Must be within 14 days of removal pursuant to MCR 3.974[C].)  
Date and time

20. This matter is set for a removal hearing on \_\_\_\_\_ pursuant to MCR 3.967. The petitioner  
Date and time shall give notice of these proceedings as required by MCR 3.920(C)(2) (use form JC 48).

21. Other:

Recommended by: \_\_\_\_\_  
Referee signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Judge

Michigan Compiled Laws Annotated  
 Michigan Court Rules of 1985  
 Chapter 3. Special Proceedings and Actions  
 Subchapter 3.900. Proceedings Involving Juveniles (Refs & Annos)

MI Rules MCR 3.963

RULE 3.963. ACQUIRING PHYSICAL CUSTODY OF CHILD

Currentness

**(A) Taking Custody Without Court Order.**

(1) An officer may without court order remove a child from the child's surroundings and take the child into protective custody if, after investigation, the officer has reasonable grounds to believe that a child is at substantial risk of harm or is in surroundings that present an imminent risk of harm and the child's immediate removal from those surroundings is necessary to protect the child's health and safety. If the child is an Indian child who resides or is domiciled on a reservation, but is temporarily located off the reservation, the officer may take the child into protective custody only when necessary to prevent imminent physical damage or harm to the child.

(2) An officer who takes a child into protective custody under this rule shall immediately notify the Department of Human Services. While awaiting the arrival of the Department of Human Services, the child shall not be held in a detention facility.

(3) If a child taken into protective custody under this subrule is not released, the Department of Human Services shall immediately contact the designated judge or referee as provided in subrule (D) to seek an ex parte court order for placement of the child pursuant to subrule (B)(4).

<Text of Subdivision (B) effective until September 1, 2015. See also, text of Subdivision (B) effective September 1, 2015.>

**(B) Court-Ordered Custody.**

(1) *Order to Take Child into Protective Custody.* The court may issue a written order, electronically or otherwise, authorizing a child protective services worker, an officer, or other person deemed suitable by the court to immediately take a child into protective custody when, after presentment of a petition or affidavit of facts to the court, the court has reasonable cause to believe that all the following conditions exist, together with specific findings of fact:

(a) The child is at substantial risk of harm or is in surroundings that present an imminent risk of harm and the child's immediate removal from those surroundings is necessary to protect the child's health and safety. If the child is an Indian child who resides or is domiciled on a reservation, but is temporarily located off the reservation, the child is subject to the exclusive jurisdiction of the tribal court. However, the state court may enter an order for protective custody of that child when it is necessary to prevent imminent physical damage or harm to the child.

(b) The circumstances warrant issuing an order pending the hearing.

- (c) Consistent with the circumstances, reasonable efforts were made to prevent or eliminate the need for removal of the child.
  - (d) No remedy other than protective custody is reasonably available to protect the child.
  - (e) Continuing to reside in the home is contrary to the child's welfare.
- (2) The court may include in such an order authorization to enter specified premises to remove the child.
- (3) The court shall inquire whether a member of the child's immediate or extended family is available to take custody of the child pending preliminary hearing, whether there has been a central registry clearance, and whether a criminal history check has been initiated.
- (4) *Ex parte Placement Order.* If an officer has taken a child into protective custody without court order under subsection (A), or if the Department of Human Services is requesting the court grant it protective custody and placement authority, the Department of Human Services shall present to the court a petition or affidavit of facts and request a written ex parte placement order. If a judge finds all the factors in subrule (B)(1)(a)-(e) are present, the judge may issue a placement order; if a referee finds all the factors in subrule (B)(1)(a)-(e) are present, the referee may issue an interim placement order pending a preliminary hearing. The written order shall contain specific findings of fact. It shall be communicated, electronically or otherwise, to the Department of Human Services.

<Text of Subdivision (B) effective September 1, 2015. See also, text of Subdivision (B) effective until September 1, 2015.>

**(B) Court-Ordered Custody.**

- (1) *Order to Take Child into Protective Custody.* The court may issue a written order, electronically or otherwise, authorizing a child protective services worker, an officer, or other person deemed suitable by the court to immediately take a child into protective custody when, after presentment of a petition or affidavit of facts to the court, the court has reasonable cause to believe that all the following conditions exist, together with specific findings of fact:
- (a) The child is at substantial risk of harm or is in surroundings that present an imminent risk of harm and the child's immediate removal from those surroundings is necessary to protect the child's health and safety. If the child is an Indian child who resides or is domiciled on a reservation, but is temporarily located off the reservation, the child is subject to the exclusive jurisdiction of the tribal court. However, the state court may enter an order for protective custody of that child when it is necessary to prevent imminent physical damage or harm to the child.
  - (b) The circumstances warrant issuing an order pending a hearing in accordance with:
    - (i) [MCR 3.965](#) for a child who is not yet under the jurisdiction of the court, or
    - (ii) [MCR 3.974\(C\)](#) for a child who is already under the jurisdiction of the court under [MCR 3.971](#) or [3.972](#).

(c) Consistent with the circumstances, reasonable efforts were made to prevent or eliminate the need for removal of the child.

(d) No remedy other than protective custody is reasonably available to protect the child.

(e) Continuing to reside in the home is contrary to the child's welfare.

(2) The court may include in such an order authorization to enter specified premises to remove the child.

(3) The court shall inquire whether a member of the child's immediate or extended family is available to take custody of the child pending a preliminary hearing, or an emergency removal hearing if the court already has jurisdiction over the child under [MCR 3.971](#) or [MCR 3.972](#), whether there has been a central registry clearance, and whether a criminal history check has been initiated.

(4) *Ex parte Placement Order.* If an officer has taken a child into protective custody without court order under subsection (A), or if the Department of Human Services is requesting the court grant it protective custody and placement authority, the Department of Human Services shall present to the court a petition or affidavit of facts and request a written ex parte placement order. If a judge finds all the factors in subrule (B)(1)(a)-(e) are present, the judge may issue a placement order; if a referee finds all the factors in subrule (B)(1)(a)-(e) are present, the referee may issue an interim placement order pending a preliminary hearing. The written order shall contain specific findings of fact. It shall be communicated, electronically or otherwise, to the Department of Human Services.

**(C) Arranging for Court Appearance.** An officer or other person who takes a child into protective custody must:

(1) immediately attempt to notify the child's parent, guardian, or legal custodian of the protective custody;

(2) inform the parent, guardian, or legal custodian of the date, time, and place of the preliminary or emergency removal hearing scheduled by the court;

(3) immediately bring the child to the court for preliminary hearing, or immediately contact the court for instructions regarding placement pending the hearing;

(4) if the court is not open, DHS must contact the person designated under subrule (D) for permission to place the child pending the hearing;

(5) ensure that the petition is prepared and submitted to the court;

(6) file a custody statement with the court that includes:

(a) a specific and detailed account of the circumstances that led to the emergency removal, and

(b) the names of persons notified and the times of notification or the reason for failure to notify.

**(D) Designated Court Contact.**

(1) When the Department of Human Services seeks a placement order for a child in protective custody under subrule (A) or (B), DHS shall contact a judge or referee designated by the court for that purpose.

(2) If the court is closed, the designated judge or referee may issue an ex parte order for placement upon receipt, electronically or otherwise, of a petition or affidavit of facts. The order must be communicated in writing, electronically or otherwise, to the appropriate county DHS office and filed with the court the next business day.

**Credits**

[Adopted February 4, 2003, effective May 1, 2003, 467 Mich; amended October 24, 2006, effective January 1, 2007, 477 Mich; May 31, 2007, effective September 1, 2007, 478 Mich; February 2, 2010, effective May 1, 2010, 485 Mich; March 20, 2013, effective immediately pending public comment, 493 Mich; June 5, 2013, effective September 1, 2013, 494 Mich; May 27, 2015, effective September 1, 2015, 498 Mich.]

**COMMENTS**

Note

MCR 3.963 corresponds to former Rule 5.963.

The revisions substitute “protective” for “temporary” custody.

Subrule (B)(2) adds a requirement that there be a showing that continuation of the child's residence in the home would be contrary to the child's welfare. This is related to federal statutes and implementing regulations. See [45 CFR 1356.21\(c\), \(d\)](#).

Revised Staff Comment to 2006 Amendment

The amendment of MCR 3.963(B)(1) reflects the reality that Family Division judges or referees are not always presented with a petition when a request is made to remove a child from the home. In emergency circumstances, a police officer or social worker may seek the court's permission to remove a child from a home, but will not have an opportunity to draft a petition before seeking the child's removal. Other changes require orders authorizing the removal of a child to be in writing. The amendment also clarifies that the court should make a “reasonable efforts” finding at the child's removal, or within 60 days of the child's removal under [MCR 3.965](#), or make a finding that “reasonable efforts” are not required. [Revision from order dated May 31, 2007.]

Staff Comment to 2010 Amendment

These amendments incorporate provisions of the Indian Child Welfare Act into specific provisions within various rules relating to child protective proceedings and juvenile status offenses. The language is designed to make the rules reflect a more integrated approach to addressing issues specific to Indian children.

[MCR 3.002\(1\)\(c\)](#) defines “preadoptive placement” to mean the “temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but before or in lieu of adoptive placement, and ...” The phrase “in lieu of

adoptive placement” is not intended to mean that it is permissible to leave a child in foster care indefinitely, in violation of [MCL 712A.19b\(6\) or \(7\)](#) or [45 CFR 1355.20](#), [45 CFR 1356.21](#), or [45 CFR 1356.50](#). Rather, it addresses situations where the parental rights to a child have been terminated and there is no permanency plan for adoption of the child. One example is when the child has been placed with a juvenile guardian and the guardianship is subsequently revoked. In this situation, jurisdiction over the child pursuant to [MCL 712A.2\(b\)](#) will be reinstated and the child is placed in foster care.

[MCR 3.002\(1\)](#): The definition of “child custody proceeding” is intended to apply the Indian Child Welfare Act to delinquency proceedings if an “Indian child” is charged with a so-called status offense in violation of [MCL 712A.2\(a\)\(2\)-\(4\) or \(d\)](#). Delinquency proceedings involving an Indian child charged with any other non-status offense are generally not subject to the Indian Child Welfare Act; however, if the initial investigation or subsequent review of a non-status delinquency case reveals that the Indian child involved suffers from child abuse or neglect, a separate child protective proceeding may be initiated, which would be subject to the Indian Child Welfare Act.

The amendment of [MCR 3.905\(C\)\(1\)](#) states that a court shall consider guidelines established by the Bureau of Indian Affairs (BIA) in determining whether good cause not to transfer exists (Guidelines for State Courts; Indian Child Custody Proceedings, 44 Fed Reg No 228, 67590-67592, C.2-C.4. [November 26, 1979]). Some examples of good cause are that the Indian tribe does not have a tribal court or that the Indian child is over 12 years old and objects to the transfer. For additional examples of good cause and relevant case law, see the BIA guidelines cited above and A Practical Guide to the Indian Child Welfare Act. (Native American Rights Fund, A Practical Guide to the Indian Child Welfare Act [Boulder, CO: Native American Rights Fund, 2007], 7.15 and 7.16, p 60.)

Staff Comment to March 2013 Amendment

This proposal incorporates provisions of the newly enacted Michigan Indian Family Preservation Act into specific provisions within various rules relating to child protective proceedings and juvenile status offenses.

Staff Comment to September 2013 Amendment

The changes of [MCR 3.913](#), [3.963](#), [3.965](#), and [3.974](#) incorporate the statutory changes enacted in 2012 Public Act 163.

Staff Comment to 2015 Amendment

The amendments of [MCR 3.963](#), [3.966](#), and [3.974](#) provide clarity regarding procedures to be followed when an emergency removal of a child has occurred but a dispositional hearing has not been held.

MI Rules [MCR 3.963](#), [MI R SPEC P MCR 3.963](#)  
Current with amendments received through 7/15/2015

Michigan Compiled Laws Annotated  
Michigan Court Rules of 1985  
Chapter 3. Special Proceedings and Actions  
Subchapter 3.900. Proceedings Involving Juveniles (Refs & Annos)

MI Rules MCR 3.966

RULE 3.966 OTHER PLACEMENT REVIEW PROCEEDINGS

Currentness

<Text of Subdivision (A) effective until September 1, 2015. See also, text of Subdivision (A) effective September 1, 2015.>

**(A) Review of Placement Order and Initial Service Plan.**

(1) On motion of a party, the court must review the placement order or the initial service plan, and may modify the order and plan if it is in the best interest of the child and, if removal from the parent, guardian, or legal custodian is requested, determine whether the conditions in [MCR 3.965\(C\)\(2\)](#) exist.

(2) If the child is removed from the home and disposition is not completed, the progress of the child must be reviewed no later than 182 days from the date the child was removed from the home.

<Text of Subdivision (A) effective September 1, 2015. See also, text of Subdivision (A) effective until September 1, 2015.>

**(A) Review of Placement Order and Initial Service Plan.**

(1) On motion of a party, the court must review the placement order or the initial service plan, and may modify the order and plan if it is in the best interest of the child. If removal from the parent, guardian, or legal custodian is requested, at the hearing on the motion, the court shall follow the placement procedures in [MCR 3.965\(B\) and \(C\)](#).

(2) If the child is removed from the home and disposition is not completed, the court shall conduct a dispositional hearing in accordance with [MCR 3.973](#).

**(B) Petitions to Review Placement Decisions by Supervising Agency.**

(1) *General.* The court may review placement decisions when all of the following apply:

(a) a child has been removed from the home;

(b) the supervising agency has made a placement decision after identifying, locating, and consulting with relatives to determine placement with a fit and appropriate relative who would meet the child's developmental, emotional, and physical needs as an alternative to nonrelative foster care;

(c) the supervising agency has provided written notice of the placement decision;

(d) a person receiving notice has disagreed with the placement decision and has given the child's lawyer-guardian ad litem written notice of the disagreement within 5 days of the date on which the person receives notice; and

(e) the child's lawyer-guardian ad litem determines the decision is not in the child's best interest.

(2) *Petition for Review.* If the criteria in subrule (1) are met, within 14 days after the date of the agency's written placement decision, the child's lawyer-guardian ad litem must file a petition for review.

(3) *Hearing on Petition.* The court must commence a review hearing on the record within 7 days of the filing of the petition.

**(C) Disputes Between Agency and Foster Care Review Board Regarding Change In Placement.**

(1) *General.* The court must conduct a hearing upon notice from the Foster Care Review Board that, after an investigation, it disagrees with a proposed change in placement by the agency of a child who is not a permanent ward of the Michigan Children's Institute.

(2) *Procedure.*

(a) *Time.* The court must set the hearing no sooner than 7 days and no later than 14 days after receipt of the notice from the Foster Care Review Board that there is a disagreement regarding a placement change.

(b) *Notice.* The court must provide notice of the hearing date to the foster parents, each interested party, and the prosecuting attorney if the prosecuting attorney has appeared in the case.

(c) *Evidence.* The court may hear testimony from the agency and any other interested party. The court may consider any other evidence bearing upon the proposed change in placement. The Rules of Evidence do not apply to a hearing under this rule.

(d) *Findings.* The court must order the continuation or restoration of placement unless the court finds that the proposed change in placement is in the child's best interests.

**Credits**

[Adopted February 4, 2003, effective May 1, 2003, 467 Mich; amended October 24, 2006, effective January 1, 2007, 477 Mich; May 27, 2015, effective September 1, 2015, 498 Mich.]

**Editors' Notes**

**COMMENTS**

Note

MCR 3.966 is new. However, subrule (A) includes the provisions of former Rule 5.965(C)(8).

Subrule (B) sets forth a procedure for review of placement decisions by the supervising agency. The review is initiated by the child's lawyer-guardian ad litem when certain conditions are met.

New subrule (C) governs resolution of disputes between an agency and the Foster Care Review Board regarding changes in placement.

Staff Comment to 2006 Amendment

The amendments of MCR 3.966 delete the term "custody order," and add the requirement from 2004 PA 477 that a review hearing occur within 182 days of a child's removal from the home.

Staff Comment to 2015 Amendment

The amendments of [MCR 3.963](#), 3.966, and [3.974](#) provide clarity regarding procedures to be followed when an emergency removal of a child has occurred but a dispositional hearing has not been held.

MI Rules MCR 3.966, MI R SPEC P MCR 3.966  
Current with amendments received through 7/15/2015

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Michigan Compiled Laws Annotated  
Michigan Court Rules of 1985  
Chapter 3. Special Proceedings and Actions  
Subchapter 3.900. Proceedings Involving Juveniles (Refs & Annos)

## MI Rules MCR 3.974

## RULE 3.974 POST-DISPOSITIONAL PROCEDURES; CHILD AT HOME

## Currentness

<Rule 3.974 effective until September 1, 2015. See also, Rule 3.974 effective September 1, 2015.>

**(A) Review of Child's Progress.**

(1) *General.* The court shall periodically review the progress of a child not in foster care over whom it has retained jurisdiction.

(2) *Time.* If the child was never removed from the home, the progress of the child must be reviewed no later than 182 days from the date the petition was filed and no later than every 91 days after that for the first year that the child is subject to the jurisdiction of the court. After that first year, a review hearing shall be held no later than 182 days from the immediately preceding review hearing before the end of the first year and no later than every 182 days from each preceding hearing until the court terminates its jurisdiction. The review shall occur no later than 182 days after the child returns home when the child is no longer in foster care. If the child was removed from the home and subsequently returned home, review hearings shall be held in accordance with [MCR 3.975](#).

(3) *Change of Placement.* Except as provided in subrule (B), the court may not order a change in the placement of a child solely on the basis of a progress review. If the child over whom the court has retained jurisdiction remains at home following the initial dispositional hearing or has otherwise returned home from foster care, the court must conduct a hearing before it may order the placement of the child. Such a hearing must be conducted in the manner provided in [MCR 3.975\(E\)](#), except as otherwise provided in this subrule for Indian children. If the child is an Indian child, in addition to the hearing prescribed by this subrule, the court must also conduct a removal hearing in accordance with [MCR 3.967](#) before it may order the placement of the Indian child.

**(B) Emergency Removal; Protective Custody.**

(1) *General.* If the child, over whom the court has retained jurisdiction, remains at home following the initial dispositional hearing or has otherwise returned home from foster care, the court may order the child to be taken into protective custody pending an emergency removal hearing pursuant to the conditions listed in [MCR 3.963\(B\)\(1\)](#) and upon receipt, electronically or otherwise, of a petition or affidavit of fact. If the child is an Indian child and the child resides or is domiciled within a reservation, but is temporarily located off the reservation, the court may order the child to be taken into protective custody only when necessary to prevent imminent physical damage or harm to the child.

(2) *Notice.* The court shall ensure that the parties are given notice of the hearing as provided in [MCR 3.920](#) and [MCR 3.921](#).

(3) *Emergency Removal Hearing.* If the court orders the child to be taken into protective custody pursuant to [MCR 3.963](#), the court must conduct an emergency removal hearing no later than 24 hours after the child has been taken into custody, excluding Sundays and holidays as defined in [MCR 8.110\(D\)\(2\)](#). If the child is an Indian child, the court must also conduct a removal hearing in accordance with [MCR 3.967](#) in order for the child to remain removed from a parent or Indian custodian. Unless the child is returned to the parent pending the dispositional review, the court must make a written determination that the criteria for placement listed in [MCR 3.965\(C\)\(2\)](#) are satisfied.

(a) At the emergency removal hearing, the respondent parent, guardian, or legal custodian from whom the child is removed must receive a written statement of the reasons for removal and be advised of the following rights:

(i) to be represented by an attorney at the dispositional review hearing;

(ii) to contest the continuing placement at the dispositional review hearing within 14 days; and

(iii) to use compulsory process to obtain witnesses for the dispositional review hearing.

(b) At an emergency removal hearing, the parent, guardian, or legal custodian from whom the child was removed must be given an opportunity to state why the child should not be removed from, or should be returned to, the custody of the parent, guardian, or legal custodian.

**(C) Dispositional Review Hearing; Procedure.** If the child is in placement pursuant to subrule (B), the dispositional review hearing must commence no later than 14 days after the child is placed by the court, except for good cause shown. The dispositional review hearing may be combined with the removal hearing for an Indian child prescribed by [MCR 3.967](#). The dispositional review hearing must be conducted in accordance with the procedures and rules of evidence applicable to a dispositional hearing.

#### Credits

[Adopted February 4, 2003, effective May 1, 2003, 467 Mich; amended October 24, 2006, effective January 1, 2007, 477 Mich; February 2, 2010, effective May 1, 2010, 485 Mich; March 20, 2013, effective immediately pending public comment, 493 Mich; June 5, 2013, effective September 1, 2013, 494 Mich.]

#### Editors' Notes

#### COMMENTS

Note

New MCR 3.974 corresponds to subrules (D) and (E) of former Rule 5.973.

The provisions of former Rule 5.974, governing termination of parental rights, are relocated to new [MCR 3.977](#) and [3.978](#).

Subrule (A)(1) makes clear that the court's progress review does not require a hearing.

Subrule (B) permits removal of the child to protect the child's health, safety, or welfare pending an emergency removal hearing. At such a hearing, a written determination of the criteria for placement is required.

#### Staff Comment to 2006 Amendment

The amendment of MCR 3.974(A)(2) conforms the review hearing time lines to recent statutory amendments of [MCL 712A.19](#) as implemented by 2004 PA 477. It also requires courts to hold a hearing to conduct a review, which will generate an order with appropriate findings and determinations.

#### Staff Comment to 2010 Amendment

These amendments incorporate provisions of the Indian Child Welfare Act into specific provisions within various rules relating to child protective proceedings and juvenile status offenses. The language is designed to make the rules reflect a more integrated approach to addressing issues specific to Indian children.

[MCR 3.002\(1\)\(c\)](#) defines “preadoptive placement” to mean the “temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but before or in lieu of adoptive placement, and ...” The phrase “in lieu of adoptive placement” is not intended to mean that it is permissible to leave a child in foster care indefinitely, in violation of [MCL 712A.19b\(6\) or \(7\)](#) or [45 CFR 1355.20](#), [45 CFR 1356.21](#), or [45 CFR 1356.50](#). Rather, it addresses situations where the parental rights to a child have been terminated and there is no permanency plan for adoption of the child. One example is when the child has been placed with a juvenile guardian and the guardianship is subsequently revoked. In this situation, jurisdiction over the child pursuant to [MCL 712A.2\(b\)](#) will be reinstated and the child is placed in foster care.

[MCR 3.002\(1\)](#): The definition of “child custody proceeding” is intended to apply the Indian Child Welfare Act to delinquency proceedings if an “Indian child” is charged with a so-called status offense in violation of [MCL 712A.2\(a\)\(2\)-\(4\) or \(d\)](#). Delinquency proceedings involving an Indian child charged with any other non-status offense are generally not subject to the Indian Child Welfare Act; however, if the initial investigation or subsequent review of a non-status delinquency case reveals that the Indian child involved suffers from child abuse or neglect, a separate child protective proceeding may be initiated, which would be subject to the Indian Child Welfare Act.

The amendment of [MCR 3.905\(C\)\(1\)](#) states that a court shall consider guidelines established by the Bureau of Indian Affairs (BIA) in determining whether good cause not to transfer exists (Guidelines for State Courts; Indian Child Custody Proceedings, 44 Fed Reg No 228, 67590-67592, C.2-C.4. [November 26, 1979]). Some examples of good cause are that the Indian tribe does not have a tribal court or that the Indian child is over 12 years old and objects to the transfer. For additional examples of good cause and relevant case law, see the BIA guidelines cited above and A Practical Guide to the Indian Child Welfare Act. (Native American Rights Fund, A Practical Guide to the Indian Child Welfare Act [Boulder, CO: Native American Rights Fund, 2007], 7.15 and 7.16, p 60.)

#### Staff Comment to March 2013 Amendment

This proposal incorporates provisions of the newly enacted Michigan Indian Family Preservation Act into specific provisions within various rules relating to child protective proceedings and juvenile status offenses.

#### Staff Comment to September 2013 Amendment

The changes of [MCR 3.913](#), [3.963](#), [3.965](#), and 3.974 incorporate the statutory changes enacted in 2012 Public Act 163.

MI Rules MCR 3.974, MI R SPEC P MCR 3.974  
Current with amendments received through 7/15/2015

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2015 MICHIGAN COURT ORDER 0012 (C.O. 0012)

COURT RULES

NOTICE: Rules and related materials supplied by the courts are included in this database. Because all changes may not have been supplied, the court clerk should be consulted to determine current rules. Pub.

Note: Additions are indicated by **Text**; deletions by ~~Text~~. Stricken material is indicated by ~~Text~~.

MI ORDER 0012

C.O. 0012

COURT RULES

Effective: Entered May 27, 2015 to Entered May 27, 2015

SUPREME COURT OF MICHIGAN  
MICHIGAN COURT RULES

Entered May 27, 2015

Effective September 1, 2015

**Order**

ADM File No. 2014-37

Amendments of Rules 3.963, 3.966, and 3.974 of the Michigan Court Rules

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendments of MCR 3.963, 3.966, and 3.974 are adopted, effective September 1, 2015.

**[The present language is amended as indicated below by underlining for new text and strikeover for text that has been deleted.]**

<< MI R SPEC P MCR 3.963 >>

RULE 3.963 ACQUIRING PHYSICAL CUSTODY OF CHILD

(A) [Unchanged.]

**(B) Court-Ordered Custody.**

(1) *Order to Take Child into Protective Custody.* The court may issue a written order, electronically or otherwise, authorizing a child protective services worker, an officer, or other person deemed suitable by the court to immediately take a child into protective custody when, after presentment of a petition or affidavit of facts to the court, the court has reasonable cause to believe that all the following conditions exist, together with specific findings of fact:

(a) [Unchanged.]

(b) The circumstances warrant issuing an order pending the **a** hearing **in accordance with:**

**(i) MCR 3.965 for a child who is not yet under the jurisdiction of the court, or**

**(ii) MCR 3.974(C) for a child who is already under the jurisdiction of the court under MCR 3.971 or 3.972.**

(c)–(e) [Unchanged.]

(2) [Unchanged.]

(3) The court shall inquire whether a member of the child's immediate or extended family is available to take custody of the child pending a preliminary hearing, **or an emergency removal hearing if the court already has jurisdiction over the child under MCR 3.971 or MCR 3.972**, whether there has been a central registry clearance, and whether a criminal history check has been initiated.

(4) [Unchanged.]

(C)–(D) [Unchanged.]

<< MI R SPEC P MCR 3.966 >>

#### RULE 3.966 OTHER PLACEMENT REVIEW PROCEEDINGS

##### (A) Review of Placement Order and Initial Service Plan.

(1) On motion of a party, the court must review the placement order or the initial service plan, and may modify the order and plan if it is in the best interest of the child. ~~and, if~~ **If removal from the parent, guardian, or legal custodian is requested, at the hearing on the motion, the court shall follow the placement procedures in MCR 3.965(B) and (C)** ~~determine whether the conditions in MCR 3.965(C)(2) exist .~~

(2) If the child is removed from the home and disposition is not completed, ~~the progress of the child must be reviewed no later than 182 days from the date the child was removed from the home~~ **court shall conduct a dispositional hearing in accordance with MCR 3.973.**

(B)–(C) [Unchanged.]

<< MI R SPEC P MCR 3.974 >>

#### RULE 3.974 ~~POST-DISPOSITIONAL~~ PROCEDURES: **FOR CHILD AT HOME; PETITION AUTHORIZED**

##### (A) Review of Child's Progress.

(1) *General.* The court shall periodically review the progress of a child not in foster care over whom it has retained **taken** jurisdiction.

(2) *Time.* If the child was never removed from the home, the progress of the child must be reviewed no later than 182 days from the date the petition was filed **authorized** and no later than 91 days after that for the first year that the child is subject to the jurisdiction of the court. After that first year, a review hearing shall be held no later than 182 days from the immediately preceding review hearing before the end of the first year and no later than every 182 days from each preceding hearing until the court terminates its jurisdiction. The review shall occur no later than 182 days after the child returns home when the child is no longer in foster care. If the child was removed from the home and subsequently returned home, review hearings shall be held in accordance with MCR 3.975.

(3) *Change of Placement.* Except as provided in subrule (B ~~C~~), the court may not order a change in the placement of a child ~~solely on the basis of a progress review~~ **without a hearing**. If the child ~~over for~~ **for** whom the court has retained jurisdiction **authorized a petition** remains at home following the initial dispositional hearing ~~or has otherwise returned home from foster care,~~ **and it comes to the court's attention at a review hearing held pursuant to subrule (A)(2), or as**

otherwise provided in this rule, that the child should be removed from the home, the court must conduct a hearing before it may order the placement of the child. **If the court orders the child to be placed out of the home following a review hearing held pursuant to subrule (A)(2), the parent must be present and the court shall comply with the placement provisions in MCR 3.965(C). If the parent is not present, the court shall proceed under subrule (C) before it may order removal.** Such a hearing must be conducted in the manner provided in MCR 3.975(E), except as otherwise provided in this subrule for Indian children. If the child is an Indian child, in addition to the a hearing prescribed by this **held in accordance with this rule** subrule , the court must also conduct a removal hearing in accordance with MCR 3.967 before it may order the placement of the Indian child.

**(B) Hearing on Petition for Out-of-Home Placement.**

**(1) Preadjudication. If a child for whom a petition has been authorized under MCR 3.962 or MCR 3.965 is not yet under the jurisdiction of the court and an amended petition has been filed to remove the child from the home, the court shall conduct a hearing on the petition in accordance with MCR 3.965.**

**(2) Postadjudication. If a child is under the jurisdiction of the court and a supplemental petition has been filed to remove the child from the home, the court shall conduct a hearing on the petition. The court shall ensure that the parties are given notice of the hearing as provided in MCR 3.920 and MCR 3.921. Unless the child remains in the home, the court shall comply with the placement provisions in MCR 3.965(C) and must make a written determination that the criteria for placement listed in MCR 3.965(C)(2) are satisfied. If the court orders that the child be placed out of the home, the court shall proceed under subrule (D).**

**(B C) Emergency Removal; Protective Custody.**

**(1) General.** If the a child; over for whom the court has retained jurisdiction **authorized an original petition** remains at home following the initial dispositional hearing or has otherwise **is** returned home from foster care **following a hearing pursuant to the rules in this subchapter**, the court may order the child to be taken into protective custody pending an emergency removal hearing pursuant to the conditions listed in MCR 3.963(B)(1) and upon receipt, electronically or otherwise, of a petition or affidavit of fact. If the child is an Indian child and the child resides or is domiciled within a reservation, but is temporarily located off the reservation, the court may order the child to be taken into protective custody only when necessary to prevent imminent physical damage or harm to the child.

**(2) Notice.** The court shall ensure that the parties are given notice of the **emergency removal** hearing as provided in MCR 3.920 and MCR 3.921.

**(3) Emergency Removal Hearing.** If the court orders the child to be taken into protective custody pursuant to **under** MCR 3.963, the court must conduct an emergency removal hearing no later than 24 hours after the child has been taken into custody, excluding Sundays and holidays as defined in MCR 8.110(D)(2). If the child is an Indian child, the court must also conduct a removal hearing in accordance with MCR 3.967 in order for the child to remain removed from a parent or Indian custodian.

**(a) Preadjudication. If a child for whom a petition has been authorized under MCR 3.962 or MCR 3.965 is not yet under the jurisdiction of the court, the emergency removal hearing shall be conducted in the manner provided by MCR 3.965.**

**(b) Postadjudication. If a child is under the jurisdiction of the court, Unless unless the child is returned to the parent pending disposition or the dispositional review, the court shall comply with the placement provisions in MCR 3.965(C) and must make a written determination that the criteria for placement listed in MCR 3.965(C)(2) are satisfied. The parent, guardian, or legal custodian from whom the child was removed must be given an opportunity to state why the child should not be removed from, or should be returned to, the custody of the parent, guardian, or legal custodian.**

~~(a) At the emergency removal hearing, t~~ **The respondent parent, guardian, or legal custodian from whom the child is removed must receive a written statement of the reasons for removal and be advised of the following rights at a hearing to be held under subrule (D):**

- (i) to be represented by an attorney at the ~~dispositional review~~ hearing;
- (ii) to contest the continuing placement at the ~~dispositional review~~ hearing within 14 days; and
- (iii) to use compulsory process to obtain witnesses for the ~~dispositional review~~ hearing.

~~(b) At an emergency removal hearing, the parent, guardian, or legal custodian from whom the child was removed must be given an opportunity to state why the child should not be removed from, or should be returned to, the custody of the parent, guardian, or legal custodian.~~

**(C) ~~D~~ Dispositional Review Hearing; Procedure Following Postadjudication Out-of-Home Placement.** If the child is in placement pursuant to **under** subrule (B)(2) or (C)(3)(b), the **court shall proceed as follows**:

**(1) If the court has not held a dispositional hearing under MCR 3.973, the court shall conduct the dispositional hearing within 28 days after the child is placed by the court, except for good cause shown.**

**(2) If the court has already held a dispositional hearing under MCR 3.973, a** dispositional review hearing must commence no later than 14 days after the child is placed by the court, except for good cause shown. The dispositional review hearing may be combined with the removal hearing for an Indian child prescribed by MCR 3.967. The dispositional review hearing must be conducted in accordance with the procedures and rules of evidence applicable to a dispositional hearing.

### Comments

Staff Comment: The amendments of MCR 3.963, 3.966, and 3.974 provide clarity regarding procedures to be followed when an emergency removal of a child has occurred but a dispositional hearing has not been held.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

MI ORDER 15-0012

8. Effective January 14, 2015, MCL 712A.2. Authority and jurisdiction; family division of circuit court, was amended to include a new jurisdictional ground for abuse and neglect cases. The amended statute added the following:

(3) If the juvenile is dependent and is in danger of substantial physical or psychological harm. The juvenile may be found to be dependent when any of the following occurs:

(A) The juvenile is homeless or not domiciled with a parent or other legally responsible person.

(B) The juvenile has repeatedly run away from home and is beyond the control of a parent or other legally responsible person.

(C) The juvenile is alleged to have committed a commercial sexual activity as that term is defined in section 462a of the Michigan penal code, 1931 PA 328, [MCL 750.462a](#) or a delinquent act that is the result of force, fraud, coercion, or manipulation exercised by a parent or other adult.

(D) The juvenile's custodial parent or legally responsible person has died or has become permanently incapacitated and no appropriate parent or legally responsible person is willing and able to provide care for the juvenile.

**MCL 712A.2(b)(3)**

It has been suggested that JC49 Order of Adjudication should be modified to include the new ground in the list of jurisdictional grounds in Item 10 of the form.

**Should this change be adopted?** (Space below provided for notes)

## Matthew Walker

---

**From:** Kathleen Feeney <kathleen.feeney@kentcountymi.gov>  
**Sent:** Tuesday, August 11, 2015 3:50 PM  
**To:** Court Forms Info  
**Cc:** Elizabeth Shearer  
**Subject:** Comments re: revised and new child protective proceeding forms

1. JC 11a: No. The current form is an affirmative finding that the child is an Indian child. Why would we also need a box stating that the child is not an Indian child? If we do this for other items, our forms will be significantly longer than they are now.
2. JC 11a, 17 and 49(1): No. The current language appears to comply with the statute and is more explicit than MCR 3.965.
3. JC 11b: Yes. A box to dismiss the petition would be fine.
4. It is unclear whether the recommendation would require the court to (a) list each parent's progress, or (b) say whether each parent has made progress or no progress. I would support option (b) but not option (a).
5. JC 19, 76(1): I am not seeing where APPLA-E has been eliminated for children over 16. If I am missing something to that end, then the change should be made. The quoted material only makes clear that APPLA can't be used for children under 16.
6. JC 49: Yes.
7. JC 75: Yes.

Thank you for your consideration.  
KAF

## Matthew Walker

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**From:** Judge Owens <dowens@courts.mi.gov>  
**Sent:** Tuesday, August 25, 2015 4:02 PM  
**To:** Court Forms Info  
**Subject:** Child Protective Proceedings forms comments

JC 11a: No need

JC 11a, 17, 49: Yes. This change will also make it consistent with MCL 712A.13a(9)(e).

JC 11b: Yes

JC19: Yes

JC 19, 76: Yes

JC 49: Yes

JC 75: Yes

Judge Donald S. Owens  
Michigan Court of Appeals

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<b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	<b>ORDER OF ADJUDICATION</b> <b>(CHILD PROTECTIVE PROCEEDINGS), PAGE 1</b> ORDER ____ OF ____	<b>CASE NO.</b> <b>PETITION NO.</b>
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Court address \_\_\_\_\_ Court telephone no. \_\_\_\_\_

- In the matter of name(s), alias(es), DOB \_\_\_\_\_
- Date of hearing: \_\_\_\_\_ Judge/Referee: \_\_\_\_\_ Bar no. \_\_\_\_\_
- Removal date: \_\_\_\_\_ (Specify for each child if different.)

**THE COURT FINDS:**

- A petition has been submitted alleging that the above child(ren) come(s) within the provisions of MCL 712A.2(b).
- The child(ren)  is/are  is not/are not subject to the continuing jurisdiction of \_\_\_\_\_ Court(s)
- Notice of hearing was given as required by law.  Notice of proceedings is to be given as required by law.
- a. Based on testimony, there is probable cause to believe the legal/putative father(s) is/are: (Name each child, his/her father, and whether legal or putative.)  
  
 b. The putative father of \_\_\_\_\_ is unknown and cannot be identified.  
 c. The natural father was notified as required by law and failed to establish paternity within the time set by the court. The natural father waives all rights to further notice, including the right to notice of termination of parental rights and the right to an attorney.

- The respondent(s) \_\_\_\_\_ Name(s)  
 did not appear  appeared in court in person or by \_\_\_\_\_ Manner of appearance and  
 was/were represented by an attorney.  waived representation by an attorney.

- The plea by \_\_\_\_\_ Name(s) is knowingly, understandingly, and voluntarily made.

- After  trial,  admission of plea,  no contest plea, and by  a preponderance of the evidence,  clear and convincing evidence,  
 a. there are no statutory grounds to exercise jurisdiction over the child(ren).  
 b. there are statutory grounds to exercise jurisdiction over the child(ren) (MCL 712A.2[b]). The statutory ground(s) is/are:  
 failure to provide, when able to do so, support, education, medical, surgical, or other necessary care for health or morals.  
 substantial risk of harm to mental well-being.  
 abandonment by parents.  
 lack of proper custody or guardianship.  
 an unfit home environment, by reason of neglect, cruelty, drunkenness, criminality, or depravity on the part of a parent, guardian, nonparent adult, or other custodian.  
 failure to comply with a limited guardianship placement plan.  
 failure to comply with a court-structured guardianship plan.  
 when a guardianship is in place, failure to provide support or to regularly visit, contact or communicate with the child(ren) for a period of 2 years, either before or after a guardianship petition was filed and a support order entered.

(SEE SECOND PAGE)

**USE NOTE:** Use of this form is optional when the court conducts the dispositional hearing immediately following adjudication.

Do not write below this line - For court use only

<b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	<b>ORDER OF ADJUDICATION</b> <b>(CHILD PROTECTIVE PROCEEDINGS), PAGE 2</b> ORDER _____ OF _____	<b>CASE NO.</b> <b>PETITION NO.</b>
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Court address

Court telephone no.

In the matter of

11. Specific findings of facts and law are  on the record.  in the attached written opinion.  as noted below.

12.  a. Contrary to the welfare findings were made in a prior order.  
 b. It is contrary to the welfare of the child(ren) to remain in the home because: (Attach separate sheets as necessary.)

13.  a. Consistent with the circumstances, reasonable efforts to prevent or eliminate removal of the child(ren) from the home were made as determined in a prior order. **OR**  
 b. Consistent with the circumstances, reasonable efforts were made to prevent or eliminate removal of the child(ren) from the home. Those efforts include: (Specify below.) **OR**  
 c. The child(ren) is/are Indian, and the court finds by clear and convincing evidence and the testimony of a qualified expert witness who has knowledge about the child-rearing practices of the Indian child's tribe, that active efforts  have  have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family. These efforts have proved  unsuccessful,  successful, the continued custody of the child(ren) by the parent or Indian custodian  is  is not likely to result in serious emotional or physical damage to the child(ren), and the child(ren)  should  should not be removed from the home.  
 (Specify below.)

The efforts for 13.b. or 13.c. are: (Specify the efforts from 13.b. or 13.c. here. If the child is an Indian child, specify active efforts as defined by MCR 3.002[1] and MCL 712B.3[a].)

d. Reasonable efforts to prevent or eliminate removal of the child(ren) from the home were not made.  
 e. Reasonable efforts to prevent or eliminate removal of the child(ren) from the home were not required as determined in a prior order.

**NOTE:** If the child(ren) were not removed before adjudication and the court determines at trial that removal is necessary, the court must make the required findings regarding contrary to the welfare and reasonable efforts to prevent removal.

(SEE THIRD PAGE)

<b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	<b>ORDER OF ADJUDICATION</b> <b>(CHILD PROTECTIVE PROCEEDINGS), PAGE 3</b> ORDER _____ OF _____	<b>CASE NO.</b> <b>PETITION NO.</b>
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Court address

Court telephone no.

In the matter of

14. a. Reasonable efforts are not required to prevent or eliminate the child(ren)'s removal from the home due to  the  mother  father subjecting the child(ren) to the aggravated circumstance(s) of \_\_\_\_\_ as provided in section MCL 722.638(1) and (2), and as evidenced

by \_\_\_\_\_.

- the  mother's  father's conviction for murder of another child of the parent.
- the  mother's  father's conviction for voluntary manslaughter of another child of the parent.
- the  mother's  father's conviction for aiding or abetting in the murder or manslaughter of another child of the parent, attempting to murder the child(ren) or another child of the parent, or conspiring or soliciting to commit the murder of the child(ren) or another child of the parent.
- the  mother's  father's conviction for felony assault that resulted in serious bodily injury to the child(ren) or another child of the parent.
- the  mother's  father's involuntary termination of parental rights to a sibling of the child(ren).
- the  mother  father being required to register under the Sex Offender Registration Act.

b. Reasonable efforts to preserve and reunify the family to make it possible for the child(ren) to safely return home are  not required because the parent subjected the child or another child of the parent to one of the circumstances stated above.

**OR**

still recommended because:

(When item 14 is checked, either complete item 16 below or schedule a permanency planning hearing within 28 days of this determination.)

15.  a. Reasonable efforts shall be made to preserve and reunify the family to make it possible for the child(ren) to safely return home.

b. Reasonable efforts shall not be made to preserve and reunify the family because it would be detrimental to the child(ren)'s health and safety.

16. Because reasonable efforts to prevent or eliminate removal or to reunite the child(ren) and family are not required, a permanency planning hearing was conducted. (Use and attach form JC 19, Order Following Dispositional Review/Permanency Planning Hearing.)

17. Custody of the child(ren) with the parent/guardian/legal custodian

- a. presents a substantial risk of harm to the child(ren)'s life, physical health, or mental well-being.
  - No provision of service or other arrangement except removal of the child(ren) is reasonably available to adequately safeguard the child(ren) from the risk of harm to the child(ren)'s life, physical health, or mental well-being.
  - Conditions of custody at the placement away from the home and with the individual with whom the child(ren) is/are placed are adequate to safeguard the child(ren)'s health and welfare.

b. does not present a substantial risk of harm to the child(ren)'s life, physical health, or mental well-being.

18. Parenting time with \_\_\_\_\_, even if supervised, may be harmful to the child(ren).

(SEE FOURTH PAGE)

<b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	<b>ORDER OF ADJUDICATION</b> <b>(CHILD PROTECTIVE PROCEEDINGS), PAGE 4</b> ORDER ____ OF ____	<b>CASE NO.</b> <b>PETITION NO.</b>
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Court address

Court telephone no.

In the matter of

**IT IS ORDERED:**

- 19. The petition is dismissed, the child(ren) is/are released to \_\_\_\_\_, and the jurisdiction of this court is terminated except that the court reserves the right to enforce orders for reimbursement of court costs, attorney fees, and other assessments that have accrued up to and including the date of this order.
- 20. Notice is to be given to the legal/putative father(s) as required by law.  The father was not present and must appear at the next hearing.  The putative father was present at this hearing and shall establish paternity within 14 days.
- 21. The child(ren)
  - a. is/are placed with the Department of Human Services for care and supervision, and
    - i. the parent, guardian, or legal custodian shall execute all documents necessary to release confidential information regarding the child(ren), including medical, mental, and educational reports, and shall also, within 7 days, provide the Department of Human Services with the name(s) and address(es) of the medical provider(s) for the child(ren). Any medical provider of the child(ren) shall release the medical records of the child(ren) to the Department of Human Services.
    - ii. if the child(ren) is/are placed in the home of a relative, a home study shall be performed by the Department of Human Services and a copy of the home study submitted to the court not more than 30 days after the placement.
    - iii. upon request, the Department of Human Services shall release to the foster parent the information concerning the child(ren) in accordance with MCL 712A.13a(13).
  - The child(ren) shall be taken into protective custody. To effect this order, \_\_\_\_\_ is authorized to enter the premises located at \_\_\_\_\_. This authorization to enter the premises and take the child(ren) into protective custody expires \_\_\_\_\_.  
 Enter on LEIN
  - b. remain home with or is/are released to \_\_\_\_\_ under the supervision of \_\_\_\_\_  
 Name(s) of parent(s), guardian, or legal custodian  
 the Department of Human Services.  The following terms and conditions apply to the parent/guardian/legal custodian:
- 22. While the child(ren) is/are placed out of the home, the friend of the court shall redirect current support due on behalf of the child(ren) to the person with whom the child(ren) is/are placed as long as that person is not receiving foster care maintenance payments. Unpaid child support that charged during the unfunded placement shall also be redirected unless otherwise assigned.
- 23. The child(ren) named \_\_\_\_\_ shall have  a psychological evaluation  counseling to determine appropriateness and conditions of parenting time.
- 24.  a. Parenting time of \_\_\_\_\_ is
  - unsupervised.  supervised until further order of the court.
  - the Department of Human Services has discretion to allow unsupervised or supervised parenting time by its designee.
- b. Parenting time of \_\_\_\_\_ is
  - unsupervised.  supervised until further order of the court.
  - the Department of Human Services has discretion to allow unsupervised or supervised parenting time by its designee.
- c. Parenting time of \_\_\_\_\_ is
  - unsupervised.  supervised until further order of the court.
  - the Department of Human Services has discretion to allow unsupervised or supervised parenting time by its designee.
- d.

(SEE FIFTH PAGE)

<p align="center"><b>STATE OF MICHIGAN</b>  <b>JUDICIAL CIRCUIT - FAMILY DIVISION</b>  <b>COUNTY</b></p>	<p align="center"><b>ORDER OF ADJUDICATION</b>  <b>(CHILD PROTECTIVE PROCEEDINGS), PAGE 5</b>  <b>ORDER _____ OF _____</b></p>	<p><b>CASE NO.</b>  <b>PETITION NO.</b></p>
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Court address

Court telephone no.

In the matter of

**IT IS ORDERED:** (continued)

25. Placement shall continue pending disposition on \_\_\_\_\_ .  
Date and time

26. Other:

27. Prior orders remain in effect except as modified by this order.

Recommended by: \_\_\_\_\_  
Referee signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Judge

**MCL 722.638 - AGGRAVATED CIRCUMSTANCES**

- (1) The Department shall submit a petition for authorization by the court under Section 2(b) of Chapter XIIA of 1939 PA 288, MCL 712A.2, if one or more of the following apply:
  - (a) The Department determines that a parent, guardian, or legal custodian, or a person who is 18 years of age or older and who resides for any length of time in the child's home, has abused the child or a sibling of the child and the abuse included one or more of the following:
    - (i) Abandonment of a young child.
    - (ii) Criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate.
    - (iii) Battering, torture, or other severe physical abuse.
    - (iv) Loss or serious impairment of an organ or limb.
    - (v) Life threatening injury.
    - (vi) Murder or attempted murder.
  - (b) The Department determines that there is risk of harm to the child and either of the following is true:
    - (i) The parent's rights to another child were terminated as a result of proceedings under Section 2(b) of Chapter XIIA of 1939 PA 288, MCL 712A.2, or a similar law of another state.
    - (ii) The parent's rights to another child were voluntarily terminated following the initiation of proceedings under Section 2(b) of Chapter XIIA of 1939 PA 288, MCL 712A.2, or a similar law of another state.
- (2) In a petition submitted as required by subsection (1), if a parent is a suspected perpetrator or is suspected of placing the child at an unreasonable risk of harm due to the parent's failure to take reasonable steps to intervene to eliminate that risk, the Department of Human Services shall include a request for termination of parental rights at the initial dispositional hearing as authorized under Section 19b of Chapter XIIA of 1939 PA 288, MCL 712A.19b.

Michigan Compiled Laws Annotated

Chapters 701 to 713 Probate Code (Refs & Annos)

Probate Code of 1939 (Refs & Annos)

Chapter Xiia. Jurisdiction, Procedure, and Disposition Involving Minors (Refs & Annos)

M.C.L.A. 712A.2

712A.2. Authority and jurisdiction; family division of circuit court

Effective: January 14, 2015

[Currentness](#)

Sec. 2. The court has the following authority and jurisdiction:

(a) Exclusive original jurisdiction superior to and regardless of the jurisdiction of another court in proceedings concerning a juvenile under 17 years of age who is found within the county if 1 or more of the following applies:

(1) Except as otherwise provided in this sub-subdivision, the juvenile has violated any municipal ordinance or law of the state or of the United States. If the court enters into an agreement under section 2e of this chapter, the court has jurisdiction over a juvenile who committed a civil infraction as provided in that section. The court has jurisdiction over a juvenile 14 years of age or older who is charged with a specified juvenile violation only if the prosecuting attorney files a petition in the court instead of authorizing a complaint and warrant. As used in this sub-subdivision, “specified juvenile violation” means 1 or more of the following:

(A) A violation of section 72, 83, 86, 89, 91, 316, 317, 349, 520b, 529, 529a, or 531 of the Michigan penal code, 1931 PA 328, [MCL 750.72](#), [750.83](#), [750.86](#), [750.89](#), [750.91](#), [750.316](#), [750.317](#), [750.349](#), [750.520b](#), [750.529](#), [750.529a](#), and [750.531](#).

(B) A violation of section 84 or 110a(2) of the Michigan penal code, 1931 PA 328, [MCL 750.84](#) and [750.110a](#), if the juvenile is armed with a dangerous weapon. As used in this paragraph, “dangerous weapon” means 1 or more of the following:

(i) A loaded or unloaded firearm, whether operable or inoperable.

(ii) A knife, stabbing instrument, brass knuckles, blackjack, club, or other object specifically designed or customarily carried or possessed for use as a weapon.

(iii) An object that is likely to cause death or bodily injury when used as a weapon and that is used as a weapon or carried or possessed for use as a weapon.

(iv) An object or device that is used or fashioned in a manner to lead a person to believe the object or device is an object or device described in subparagraphs (i) to (iii).

(C) A violation of section 186a of the Michigan penal code, 1931 PA 328, [MCL 750.186a](#), regarding escape or attempted escape from a juvenile facility, but only if the juvenile facility from which the individual escaped or attempted to escape was 1 of the following:

(i) A high-security or medium-security facility operated by the department of human services or a county juvenile agency.

(ii) A high-security facility operated by a private agency under contract with the department of human services or a county juvenile agency.

(D) A violation of section 7401(2)(a)(i) or 7403(2)(a)(i) of the public health code, 1978 PA 368, [MCL 333.7401](#) and [333.7403](#).

(E) An attempt to commit a violation described in paragraphs (A) to (D).

(F) Conspiracy to commit a violation described in paragraphs (A) to (D).

(G) Solicitation to commit a violation described in paragraphs (A) to (D).

(H) A lesser included offense of a violation described in paragraphs (A) to (G) if the individual is charged with a violation described in paragraphs (A) to (G).

(I) Another violation arising out of the same transaction as a violation described in paragraphs (A) to (G) if the individual is charged with a violation described in paragraphs (A) to (G).

(2) The juvenile has deserted his or her home without sufficient cause, and the court finds on the record that the juvenile has been placed or refused alternative placement or the juvenile and the juvenile's parent, guardian, or custodian have exhausted or refused family counseling.

(3) The juvenile is repeatedly disobedient to the reasonable and lawful commands of his or her parents, guardian, or custodian, and the court finds on the record by clear and convincing evidence that court-accessed services are necessary.

(4) The juvenile willfully and repeatedly absents himself or herself from school or other learning program intended to meet the juvenile's educational needs, or repeatedly violates rules and regulations of the school or other learning program, and the court finds on the record that the juvenile, the juvenile's parent, guardian, or custodian, and school officials or learning program personnel have met on the juvenile's educational problems and educational counseling and alternative agency help have been sought. As used in this sub-subdivision only, "learning program" means an organized educational program that is appropriate, given the age, intelligence, ability, and psychological limitations of a juvenile, in the subject areas of reading, spelling, mathematics, science, history, civics, writing, and English grammar.

(b) Jurisdiction in proceedings concerning a juvenile under 18 years of age found within the county:

(1) Whose parent or other person legally responsible for the care and maintenance of the juvenile, when able to do so, neglects or refuses to provide proper or necessary support, education, medical, surgical, or other care necessary for his or her health or morals, who is subject to a substantial risk of harm to his or her mental well-being, who is abandoned by his or her parents, guardian, or other custodian, or who is without proper custody or guardianship. As used in this sub-subdivision:

(A) “Education” means learning based on an organized educational program that is appropriate, given the age, intelligence, ability, and psychological limitations of a juvenile, in the subject areas of reading, spelling, mathematics, science, history, civics, writing, and English grammar.

(B) “Without proper custody or guardianship” does not mean a parent has placed the juvenile with another person who is legally responsible for the care and maintenance of the juvenile and who is able to and does provide the juvenile with proper care and maintenance.

(2) Whose home or environment, by reason of neglect, cruelty, drunkenness, criminality, or depravity on the part of a parent, guardian, nonparent adult, or other custodian, is an unfit place for the juvenile to live in.

(3) If the juvenile is dependent and is in danger of substantial physical or psychological harm. The juvenile may be found to be dependent when any of the following occurs:

(A) The juvenile is homeless or not domiciled with a parent or other legally responsible person.

(B) The juvenile has repeatedly run away from home and is beyond the control of a parent or other legally responsible person.

(C) The juvenile is alleged to have committed a commercial sexual activity as that term is defined in section 462a of the Michigan penal code, 1931 PA 328, [MCL 750.462a](#) or a delinquent act that is the result of force, fraud, coercion, or manipulation exercised by a parent or other adult.

(D) The juvenile's custodial parent or legally responsible person has died or has become permanently incapacitated and no appropriate parent or legally responsible person is willing and able to provide care for the juvenile.

(4) Whose parent has substantially failed, without good cause, to comply with a limited guardianship placement plan described in section 5205 of the estates and protected individuals code, 1998 PA 386, [MCL 700.5205](#), regarding the juvenile.

(5) Whose parent has substantially failed, without good cause, to comply with a court-structured plan described in section 5207 or 5209 of the estates and protected individuals code, 1998 PA 386, [MCL 700.5207](#) and [700.5209](#), regarding the juvenile.

(6) If the juvenile has a guardian under the estates and protected individuals code, 1998 PA 386, [MCL 700.1101](#) to [700.8206](#), and the juvenile's parent meets both of the following criteria:

(A) The parent, having the ability to support or assist in supporting the juvenile, has failed or neglected, without good cause, to provide regular and substantial support for the juvenile for 2 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 2 years or more before the filing of the petition.

(B) The parent, having the ability to visit, contact, or communicate with the juvenile, has regularly and substantially failed or neglected, without good cause, to do so for 2 years or more before the filing of the petition.

If a petition is filed in the court alleging that a juvenile is within the provisions of subdivision (b)(1), (2), (3), (4), (5), or (6) and the custody of that juvenile is subject to the prior or continuing order of another court of record of this state, the manner of notice to the other court of record and the authority of the court to proceed is governed by rule of the supreme court.

(c) Jurisdiction over juveniles under 18 years of age, jurisdiction of whom has been waived to the family division of circuit court by a circuit court under a provision in a temporary order for custody of juveniles based upon a complaint for divorce or upon a motion related to a complaint for divorce by the prosecuting attorney, in a divorce judgment dissolving a marriage between the juvenile's parents, or by an amended judgment relative to the juvenile's custody in a divorce.

(d) If the court finds on the record that voluntary services have been exhausted or refused, concurrent jurisdiction in proceedings concerning a juvenile between the ages of 17 and 18 found within the county who is 1 or more of the following:

(1) Repeatedly addicted to the use of drugs or the intemperate use of alcoholic liquors.

(2) Repeatedly associating with criminal, dissolute, or disorderly persons.

(3) Found of his or her own free will and knowledge in a house of prostitution, assignation, or ill-fame.

(4) Repeatedly associating with thieves, prostitutes, pimps, or procurers.

(5) Willfully disobedient to the reasonable and lawful commands of his or her parents, guardian, or other custodian and in danger of becoming morally depraved.

If a juvenile is brought before the court in a county other than that in which the juvenile resides, before a hearing and with the consent of the judge of the court in the county of residence, the court may enter an order transferring jurisdiction of the matter to the court of the county of residence. Consent to transfer jurisdiction is not required if the county of residence is a county juvenile agency and satisfactory proof of residence is furnished to the court of the county of residence. The order does not constitute a legal settlement in this state that is required for the purpose of section 55 of the social welfare act, 1939 PA 280, [MCL 400.55](#). The order and a certified copy of the proceedings in the transferring court shall be delivered to the court of the county of residence. A case designated as a case in which the juvenile shall be tried in the same manner as an adult under section 2d of this chapter may be transferred for venue or for juvenile disposition, but shall not be transferred on grounds of residency. If the case is not transferred, the court having jurisdiction of the offense shall try the case.

(e) Authority to establish or assist in developing a program or programs within the county to prevent delinquency and provide services to act upon reports submitted to the court related to the behavior of a juvenile who does not require formal court

jurisdiction but otherwise falls within subdivision (a). These services shall be used only if the juvenile and his or her parents, guardian, or custodian voluntarily accepts them.

(f) If the court operates a detention home for juveniles within the court's jurisdiction under subdivision (a)(1), authority to place a juvenile within that home pending trial if the juvenile is within the circuit court's jurisdiction under section 606 of the revised judicature act of 1961, 1961 PA 236, [MCL 600.606](#), and if the circuit court orders the family division of circuit court in the same county to place the juvenile in that home. The family division of circuit court shall comply with that order.

(g) Authority to place a juvenile in a county jail under section 27a of chapter IV of the code of criminal procedure, 1927 PA 175, [MCL 764.27a](#), if the court designates the case under section 2d of this chapter as a case in which the juvenile is to be tried in the same manner as an adult and the court determines there is probable cause to believe that the offense was committed and probable cause to believe the juvenile committed that offense.

(h) Jurisdiction over a proceeding under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, [MCL 600.2950](#) and [600.2950a](#), in which a minor less than 18 years of age is the respondent, or a proceeding to enforce a valid foreign protection order issued against a respondent who is a minor less than 18 years of age. A personal protection order shall not be issued against a respondent who is a minor less than 10 years of age. Venue for an initial action under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, [MCL 600.2950](#) and [600.2950a](#), is proper in the county of residence of either the petitioner or respondent. If the respondent does not live in this state, venue for the initial action is proper in the petitioner's county of residence.

(i) In a proceeding under this chapter concerning a juvenile's care and supervision, the court may issue orders affecting a party as necessary. This subdivision does not apply after May 1, 2018. As used in this subdivision, "party" means 1 of the following:

(i) In a delinquency proceeding, the petitioner and juvenile.

(ii) In a child protective proceeding, the petitioner, department of human services, child, respondent, parent, guardian, or legal custodian, and any licensed child caring institution or child placing agency under contract with the department of human services to provide for a juvenile's care and supervision.

### Credits

Amended by P.A.1984, No. 131, Imd. Eff. June 1, 1984; P.A.1986, No. 203, Imd. Eff. July 25, 1986; [P.A.1988, No. 53, Eff. Oct. 1, 1988](#); [P.A.1988, No. 224, Eff. Apr. 1, 1989](#); [P.A.1990, No. 314, Imd. Eff. Dec. 20, 1990](#); [P.A.1994, No. 192, § 1, Eff. Oct. 1, 1994](#); [P.A.1996, No. 250, § 1, Eff. Jan. 1, 1997](#); [P.A.1996, No. 409, § 1, Eff. Jan. 1, 1998](#); [P.A.1998, No. 474, Eff. March 1, 1999](#); [P.A.1998, No. 478, Eff. Jan. 12, 1999](#); [P.A.1998, No. 530, Eff. July 1, 1999](#); [P.A.2000, No. 55, Eff. April 1, 2000](#); [P.A.2001, No. 211, Eff. April 1, 2002](#); [P.A.2014, No. 342, Eff. Jan. 14, 2015](#); [P.A.2014, No. 519, Imd. Eff. Jan. 14, 2015](#).

### [Notes of Decisions \(277\)](#)

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The statutes are current through P.A.2015, No. 130, of the 2015 Regular Session, 98th Legislature.