



SCAO MONTHLY JUVENILE AND PROBATE UPDATE

MAY 2024

Memorandums and Resources

[Reunification Day Memo to State and Tribal Courts](#) (May 2, 2024)

[Reunification Day Memo to Tribal Courts](#) (May 2, 2024)

[MCL 769.1k\(b\)\(iii\) Sunset Extended](#) (April 30, 2024)

[MCL 769.1k\(1\)\(b\)\(iii\) Sunset - FAQ](#) (April 19, 2024)

[Adult Automatic Set Aside - Remaining Court Rule Amendments and PACC Code Reporting](#) (April 9, 2024)

[MCL 769.1k\(1\)\(b\)\(iii\) Sunset and Civil Infractions](#) (April 3, 2024)

One Court of Justice Website

- [Video Tutorial: Navigating Popular Resources for Judges and Court Staff](#)
- [MJJ Benchbooks](#)
- [Quick Reference Resources](#)
- [Child Welfare and Juvenile Justice Services](#)
 - Juvenile Justice Reform and County Implementation Teams Information
 - Sample Flow Charts – Screening and Assessment Tools, Detention Screening
 - Various recorded webinars
 - OJJDP Juvenile Justice Clearinghouse
 - Juvenile Justice Reform Training and Development
 - Juvenile Justice Training in a Minute
 - MJJ Training Webinars
 - SCAO Resources
 - Benchbooks
 - Court Rules
 - Case File Management Standards
 - Records Management: Retention and Disposal Schedule
 - Nonpublic and Limited Access Chart

Michigan Judicial Institute (MJJ)

- MJJ Impact summarizes recent court communications, court rules, legislation, and upcoming training events.
- Subscribe to MJJ Impact below:
<https://www.courts.michigan.gov/administration/offices/michigan-judicial-institute/subscribe-to-impact/>

Stay informed with the [Court Subscription Services](#)

- Receive information on Michigan appellate court opinions, administrative rules, news about-and of interest to-Michigan Courts.

Enacted Legislation

None.



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Introduced Legislation

Juvenile:

[SB 824 of 2024 - Mandatory Reporters](#)

Statute Cite: MCL 722.623a

Status: 04/10/2024 – Introduced and Referred to Comte on Housing and Human Services

What it does: This bill amends the Child Protection Law to modify the mandatory reporting of certain events at birth of a child to include if a newborn infant is shown to be affected by alcohol, controlled substance, or metabolite of a controlled substance. This bill further would require the department to develop a plan of safe care to address the infant's needs.

Probate:

[SB 0822 of 2024 - Patient Advocates](#)

Statute Cite: MCL 700.5507

Status: 04/10/24 - Introduced and Referred to Comte on Housing and Human Services

What it does: This bill amends EPIC to allow a patient advocate designation to also include a statement regarding which life-sustaining treatment the patient would desire or not desire if the patient is pregnant at the time the designation becomes effective.

Proposed Court Rules/Administrative Orders

Visit Page for Proposed Court Rules [here](#).

None.

Adopted Court Rules/Administrative Orders

[Amendments of Rules 1.109, 2.412, 3.302, 3.716, 3.717, 3.718, 3.903, 3.965, 3.972, 4.002, 5.125, 5.501, 7.108, 7.205, 7.305, 9.125, 9.220, 9.315 of the Michigan Court Rules, Rule 1.17 of Michigan Rules of Professional Conduct, and Rules 801, 803, 804, 1001, and 1102 of the Michigan Rules of Evidence](#)

ADM File: 2023-11

Issued: 04/11/2024

Effective: Immediately

What it does: The amendments update cross-references and make other nonsubstantive revisions to clarify the rules.

Forms

[Explanation of Changes to PC 556](#) (May 7, 2024)

- **Petition and Order for Assignment**
- Note added to clarify when this form may be used.
- Language modified to clarify how the inventory value should be calculated.



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Explanation of Changes to Various Probate Forms (April 24, 2024)

- **Affidavit of Decedent's Successor for Delivery of Certain Assets Owned by Decedent (PC 598)**
 - Maximum value of the decedent's estate was updated pursuant to 2024 PA 1 (EPIC Omnibus).
 - Changes were made to increase readability.
- **Petition and Order for Assignment (PC 556) **NEW FORM****
 - New combined form
 - Replaces *PC 556m, Petition for Assignment* and *PC 556o, Order for Assignment*
 - Maximum gross value of the decedent's property was updated pursuant to 2024 PA 1 (EPIC Omnibus).

Explanation of Changes to SCAO 17, 25A, 27 and 75 (April 17, 2024)

- **Financial Report for Year (SCAO 17)**
 - Name of the Regional Administrator for Region V was updated.
- **Annual Judicial Absence Report for Calendar Year (SCAO 25a)**
 - Name of the Regional Administrator for Region V was updated.
- **Nepotism Waiver (SCAO 75)**
 - Name of the Regional Administrator for Region V was updated.

Revisions to MC 541 (April 4, 2024)

- Revisions were made to address attorney email address updates in MiFile courts.

Upcoming Trainings

MJI Training Opportunities

Community-Based Programs and Services, Part I: Where Do We Start?

Friday, June 7, 2024

12:00 p.m. – 1:00 p.m.

As part of the juvenile justice reform efforts in Michigan, community-based services and programs are encouraged and incentivized through the legislative changes to the Child Care Fund (CCF). Effective October 1, 2024, CCF eligibility will also include programs and services at the point in which a complaint, referral, or petition is received. CCF reimbursement to counties increases to 75 percent for in-home care expenses including community-based supervision, services, and related practices.

This webinar will provide attendees with the following:

Details and examples on the process of developing a community-based program from inception to operation.

Insight from our speaker, Jason Smith, on helping courts develop community-based programming, including how to identify community needs, collaboration with local stakeholders, ideas for funding sources, and other important areas in program development.

This is part one of a two-part webinar series on Community-Based Programs and Services that will be provided in the month of June. Details about Part II, which will occur on June 28, 2024, will be forthcoming.

CJE Credit Hours: This webinar **does not** qualify for continuing judicial education credit hours.



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Juvenile:

[Child Welfare Services Training and Development Opportunities](#)

This link provides access to current training and development opportunities offered by CWS.

[Child Welfare Services Recorded Webinars](#)

This link provides access to previously recorded webinars.

➤ **[Family Defense 101 Training Series](#)**

Target audience: Attorneys who represent parents in child protective proceedings.

This online training series is comprised of 13 pre-recorded training sessions, between 30-60 minutes on various topics.

➤ **[Lawyer-Guardian Ad Litem Resources and Online Training](#)**

This link provides a list of resources, trainings, and recorded webinars with correlating training materials.

[National Center for State Courts \(NCSC\) Webinars](#)

The link above provides access to current and recorded webinars offered by NCSC.

[Michigan Department of Health and Human Services Training Opportunities](#)

[Michigan Juvenile Justice Assessment System \(MJJAS\) FY24 Training Schedule](#)

Michigan Department of Health and Human Services (MDHHS) Division of Juvenile Justice (JJ) is pleased to announce Michigan Juvenile Justice Assessment System (MJJAS) risk assessment certification training. The MJJAS is provided to MDHHS through a contractual agreement with the University of Cincinnati Research Institute and is also known as the Ohio Youth Assessment System[®] (OYAS) with funding provided through the Mental Health Diversion Council Juvenile Justice Subcommittee. The MJJAS (a.k.a: OYAS) is a structured risk assessment tool that identifies the likelihood of a youth engaging in future criminal behavior and informs appropriate risk classification. The MJJAS assessments can be re-administered over time to determine changes in risk level based upon changes in behavioral profile or life situation. The MJJAS can be used at five different decision points for a youth: diversion, detention, disposition, juvenile justice residential placement, and reentry to the community from residential placement. In addition to risk assessment, results from the disposition, residential and reentry tools are assistive for case planning, and for identification of residential and re-entry service needs.

[Juvenile Justice Case Management](#)

The MJJAS is the designated risk assessment system for juvenile justice youth under the care and supervision of MDHHS. Service plans and residential treatment plans entered in the Michigan Statewide Child Welfare Information System (MiSACWIS) require administration of the MJJAS for juvenile justice youth. Also, the MJJAS risk assessment training is available to Michigan juvenile court personnel who are interested in becoming certified to administer the MJJAS in their jurisdiction.

Each training session will consist of four half days from 8:30 a.m. – 12:30 p.m. per UCCI guidelines. Maximum enrollment is generally limited to 15 participants per session. Participants are required to attend four consecutive half days of training to be eligible for certification testing.



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Training dates are as follows:

- June 10-13, 2024 - Virtual
- August 12-15, 2024 - Virtual
- September 23-26, 2024 - Virtual
- October 14-17, 2024 - Virtual
- December 16-19, 2024 – Virtual

There is no registration fee for this training. JJ specialists and supervisors, and public and private residential treatment staff and supervisors working with juvenile justice youth under the care and supervision of MDHHS will be given priority to register for this training. Registration for others is on a first-come, first-served basis. Participants that fail to attend, arrive late, depart early, or attend only portions of the training will not be eligible to receive certification to administer the MJJAS. Virtual classes will close approximately two weeks prior to registration or sooner if class size is reached.

Michigan juvenile court staff may schedule by contacting MDHHS at MDHHS-MJJAS@michigan.gov. Michigan juvenile court staff who need to cancel or have additional questions, please contact MDHHS-MJJAS@michigan.gov.

Interstate Commission for Juveniles

ICJ On-Demand Training Site

ICJ's On-Demand training modules provide 24/7 access to a variety of information related to the compact rules and processes.

- If you are seeking training or have any ICJ related questions or concerns, please contact the Michigan ICJ office at MDHHS-MI-ICJ@michigan.gov for assistance.

Probate:

National Center for State Courts (NCSC) Webinars

The link above provides access to current webinars and recorded webinars offered by NCSC.

Cases

Juvenile

Termination of Parental Rights – Proper Service

“In a child protective proceeding, a parent of a child is entitled to personal service of the summons and notice of proceedings,” and “failure to provide notice of a termination proceeding hearing by personal service as required by statute is a jurisdictional defect that renders all proceedings in the trial court void.” [In re Lovitt](#), ___ Mich App ___, ___ (2024) (cleaned up). “However, if personal service is impracticable, a trial court may permit alternative service”—“[w]hen determining whether personal service would be impractical, the trial court must determine if reasonable efforts were made to locate the party.” *Id.* at ___. “In this case, there is no evidence that respondent was personally served with the summons or that the court was properly presented with an appropriate motion for alternate service”; “[i]ndeed, there is no evidence confirming that respondent was served with the summons and supplemental petition by any permissible manner.” *Id.* at ___. “Because respondent was not served in accordance with the requirements of MCL 712A.13 and the court rules, the trial court lacked jurisdiction to terminate her parental rights at the . . . termination hearing and, accordingly, plainly erred when it proceeded with the termination proceeding.” [Lovitt](#), ___ Mich App at ___ (further finding that “the trial court violated respondent’s right to due process



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by allowing her attorney to withdraw at the start of the termination hearing and proceeding with the termination hearing in respondent's absence after she had not been properly served with the summons for the hearing").

Probate

Trust – Public Policy and Fiduciary Duty

Public Policy. “A trust may be created only to the extent its purposes are lawful, not contrary to public policy, and possible to achieve,” and “a trust terminates if the purposes of the trust are found by a court to be unlawful or contrary to public policy.” [In re Lyden Trust](#), ___ Mich App ___, ___ (2024) (quotation marks and citations omitted). This case involves a dispute between appellant, the decedent's spouse, who had initiated divorce proceedings before decedent's death, and appellee, the decedent's son from a prior marriage, over reformation of the decedent's trust. *Id.* at ___. Before his death, the decedent “amended the Trust to designate [appellee] as the sole beneficiary and successor trustee”—the “Trust expressly stated that a divorce was pending and that [the decedent] was intentionally making no provision for [appellant] in the trust.” *Id.* at ___. The decedent “informed [appellant] that he had amended his trust to remove her as a successor trustee and beneficiary.” *Id.* at ___. Appellant “argues that reformation or the imposition of a constructive trust is warranted because the . . . Trust violated public policy due to its being a fraud upon marital assets”; however, “if there is no indication of intent to defraud the other spouse of his or her marital rights, a spouse may use an inter vivos trust to effectively disinherit the other spouse.” *Id.* at ___. “Here, [the decedent] executed the . . . restatement of the Trust to provide for [appellee] in light of [the decedent's] pending divorce,” which is a proper purpose because “there is no indication that [the decedent] intended to defraud [appellant] of her marital rights.” *Id.* at ___. “In light of the information available to her, [appellant] possessed sufficient knowledge to anticipate that [the decedent] might die before the divorce was finalized and that, as a result, she would be disinherited under the terms of his . . . Trust.” *Id.* at ___. “[U]nder these circumstances, [appellant] has not made the requisite showing that the . . . restatement of the trust agreement violated public policy because she has not shown that [the decedent] committed fraud upon her marital assets.” *Id.* at ___.

Fiduciary Duty. “MCL 700.7603(1) provides that while a trust is revocable, rights of the trust beneficiaries are subject to the control of, and the duties of the trustee owed exclusively to, the settlor.” [In re Lyden Trust](#), ___ Mich App ___, ___ (2024) (quotation marks omitted). In this case, appellant “was a beneficiary of [the decedent's] revocable inter vivos trust”—“[s]he was not a settlor.” *Id.* at ___. “Consequently, the only fiduciary duty owed by [the decedent], as trustee, was to himself as settlor.” *Id.* at ___. “Moreover, although a fiduciary relationship may exist between husband and wife, at the time of divorce proceedings, there certainly is no reposing of faith, confidence, and trust and the placing of reliance by one party upon the judgment and advice of the other party.” *Id.* at ___ (cleaned up). In this case, “at the time of the divorce proceedings, [appellant] cannot say that she continued to place her faith, confidence, and trust in [the decedent].” *Id.* at ___. “Rather, assuming arguendo that a fiduciary relationship existed between [the decedent] and [appellant] during the marriage because [the decedent] directed the estate planning activities and handled the couple's finances, that relationship no longer existed in the middle of the divorce proceedings, which is when the alleged breach of his fiduciary duties occurred.” *Id.* at ___.