

Juvenile Proceedings

**in the
Sixteenth
Circuit Court**



***Macomb County
Michigan***

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PREFACE

This booklet is meant to be a guide for those persons using the Juvenile Division of the Macomb County Circuit Court.

This booklet should also serve as an overview of the Juvenile Division of Circuit Court, specifically, child protective and delinquency proceedings. Adoption proceedings are not discussed.

Child protective proceedings concern an offense against a child, MCR 3.903(A)(2). “Offense against a child” means an act or omission by a parent, guardian, nonparent adult, or legal custodian asserted as grounds for bringing the child within the jurisdiction of the court pursuant to the Juvenile Code. MCR 3.903(C)(7). Child protective proceedings are not criminal proceedings. MCL 712.A1(2).

Juvenile delinquency proceedings involve juveniles under age 17 who are charged with a violation of a criminal law or ordinance, or with a status offense.

In order to be an effective advocate for your client, whether parent or child, you should review and become familiar with:

- A. The Juvenile Code**
(MCL 712A.1 et seq);
- B. The Child Protective Law**
(P.A. 1975, No.238);
- C. Binsfield Legislation**
(P.A. 1997, No. 163-172);
- D. Michigan Court Rules**
(MCR 3.901 et seq);
- E. Local Administrative Orders**

Please visit the Macomb County Circuit Court’s website, <http://www.macombcountymi.gov/circuitcourt/publications>, for current policy for court appointed attorneys in Juvenile matters.

Originally drafted by Macomb County Bar Association,
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Updated by General Counsel, 16th Macomb Circuit Court Patricia McKay
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Section 1:
CHILD PROTECTIVE PROCEEDINGS
Initiating Child Protective Proceedings, MCR 3.961

Cases come to the attention of a jurist primarily through the Department of Human Services (DHS), which receives referrals from the community: teachers, doctors, principals, neighbors, etc. Referrals are done on DHS Form 3200. DHS investigates most allegations of abuse, neglect or dependency. Police agencies may investigate and petition in certain circumstances. Absent exigent circumstances, a request for court action must be in the form of a complaint or petition, MCR 3.961(A).

When the petition is not accompanied by a request for placement of the child, a jurist may conduct a preliminary inquiry or unofficial hearing. A preliminary inquiry does not need to be conducted on the record or in the presence of the parties MCR 3.962. After inquiry a jurist may:

- Refuse to authorize the petition;
- Refer to alternative services;
- Authorize the filing of the petition and place the case on the formal calendar.

If the child is in custody or the petitioner seeks to remove the child pending a court determination of whether or not to assume jurisdiction, a preliminary hearing must be conducted within 24 hours of the child being taken into custody.

If a preliminary hearing is required a jurist will appoint an attorney to represent:

- The legal parent or guardian (if requested by the parent or legal guardian);
- The child, MCR 3.915;
- Putative fathers who have established paternity.

Practice in Macomb County permits verbal reports in addition to a written complaint at the preliminary hearing. Hearsay evidence is admissible at this proceeding. If the petition is authorized, a written petition is prepared by DHS, signed by the petitioner and distributed to all interested parties and counsel. There are two purposes for the preliminary hearing:

- To determine whether probable cause exists to believe that the allegations in the proposed petition have a basis in fact and if so:
- To determine placement and visitation if the child is to remain outside the parent's home.

Lawyer-Guardian Ad Litem

A jurist must appoint a lawyer-guardian ad litem to represent the child in every child protective proceeding, MCL 712A.17c(7). The duties and powers of a lawyer-guardian ad litem are set forth in MCL 712A.17d(1)(a)-(k). Lawyers appointed to represent the children must interview and visit the children on a routine basis as set out in the statute and court rules.

In child protective proceedings, upon the request of DHS, the prosecutor must serve as the legal consultant to DHS at all stages of the proceedings. MCR 3.194.

DHS may retain legal representation if the prosecutor does not appear on its behalf.

Preliminary Hearing, MCR 3.965

A preliminary hearing in a Child Protective Proceeding must commence within 24 hours if the child has been taken into protective custody, except Sundays and Holidays, unless adjourned for good cause shown, or the child must be released. An attorney appointed for the child is required to visit the child. At a preliminary hearing, the attorney must represent the best interest of the child.

The petitioner will testify as to the allegations against the respondent. A jurist must advise the respondent of the right to assistance of counsel per MCR 3.915 and the right to trial before a judge or jury per MCR 3.911 or 3.912. The respondent shall be given an opportunity to deny or admit the allegations and make a statement or explanation.

Based on all the information at the hearing, the attorney for the child is expected to recommend to the jurist:

- A. Whether to authorize the petition and, if so, on what grounds;
- B. Placement of the child pending the next hearing, if a petition is authorized; and
- C. Whether and under what conditions visitation is to occur.

The jurist determines whether the petition should be authorized and whether the child should be placed outside of the home. A jurist shall not place the child out of the respondent's home unless there is a probable cause finding to believe that the respondent committed an offense against the child and that continued placement in the respondent's home would endanger the child's health, safety or welfare. If the case is expected to go to trial, counsel for respondent and/or the child should move for discovery of all pertinent information. Requests for discovery should also be made in writing to the Prosecuting Attorney. Unless visitation would be harmful to the child, the child's parents will be permitted to visit frequently with the child. Visitation may either be supervised, by DHS or its designee, or unsupervised.

Pending trial a jurist may review and modify placement orders in the best interest of the child. In any proceeding, the legal parents of the child are entitled to legal counsel and, if indigent, they are entitled to legal counsel at public expense.

A preliminary hearing is held before a jurist who is referred to as a Referee. There is no right to a preliminary hearing before a judge.

Pretrial Hearing

Pretrial hearings are scheduled and held after a petition has been authorized by a jurist. A pretrial hearing provides an opportunity for the parties to resolve the case without a trial through discussions or negotiations among the attorneys, caseworkers and the parties themselves. This hearing is also used to establish time frames for discovery, motions and exchange of witness lists.

A respondent may make a plea of admission or no contest to an original or amended petition. A jurist must advise the respondent of the allegations in the petition, the right to an attorney, the rights waived by tendering a plea and possible consequences once a plea is accepted. A formal plea taking procedure is required, MCR 3.971.

If the matter is to be set for trial by judge or jury, the appropriate demand shall be completed and submitted at pretrial hearing. The parties may also request a trial before a referee. The trial date is scheduled at this hearing.

Judge and Jury Demands, MCR 3.911, 3.912

A demand for a trial by judge or jury must be filed in writing within:

- A. 14 days after the jurist gives notice of the right to jury trial, or
- B. 14 days after the filing of appearance of counsel, whichever is later, but no later than 21 days before trial.

Macomb County provides judge and jury demand forms which should be completed and submitted by the party making the demand. These forms are available from the office of the judge and referees and should be submitted to the judge's office.

Trial, MCR 3.972

If the child is not in placement, the trial must be held within six months after the filing of the petition. If the child is in placement, the trial must begin as soon as possible, but no later than 63 days after the child is placed by a jurist, unless the trial is postponed. The trial may be postponed:

- 1. On Stipulation of the parties;
- 2. Because personal service cannot be completed; or
- 3. Because the court finds that the testimony of a presently unavailable witness is needed.

If the trial is postponed pursuant to "2" or "3" above, the jurist

shall release the child to the parents unless he/she finds that returning the child will likely result in physical harm or serious emotional damage to the child. The rules of evidence for civil proceedings and the standard of proof by a preponderance of evidence apply at the trial.

Disposition and Review Hearings, MCR 3.973

A dispositional hearing is conducted to determine what measures will be taken to reunite the family. The agency responsible for the child's care and supervision must report to the jurist in writing what efforts were made to prevent the child's removal from his or her home and what efforts were made to rectify the conditions that caused the child's removal. This report must list the services which were provided to the child and the parent, or, if no services were provided, the reasons for not providing services. The interval between the trial and the disposition hearing is within the discretion of a jurist. When the child is in placement, the interval shall not be more than 28 days, except for good cause. Michigan Rules of Evidence do not apply at the disposition hearing. All relevant, material evidence, including oral and written reports, may be received and relied on to the extent of its probative value, though such evidence may not be admissible at trial. A jurist may include an order requiring one or both of the child's parents to pay child support. All child support orders must comply with MCL 552.605 and MCR 3.211(D).

Counsel for parents and counsel for the child should obtain copies of all reports and review them. At disposition, counsel has the opportunity to controvert the reports. No assertion of evidentiary privilege, other than that of attorney and client, shall prevent the receipt or use of materials prepared pursuant to court-ordered examination, interview, or course of treatment. MCL 722.631.

If the child remains in foster care, disposition review hearings must be held no later than every 91 days for the first year following entry of the original order of disposition, and no later than every 182 days thereafter.

Review hearings shall be conducted in accordance with the procedures and rules of evidence applicable to the initial disposition hearings.

If a child remains at home following the initial disposition hearing and a jurist retains jurisdiction, a review of the child's progress at home must be conducted no later than 182 days after the petition is authorized.

Permanency Planning Hearings, MCR 3.976

If a child remains in foster care for an extended period of time and parental rights have not been terminated, a permanency planning hearing must be held no later than 1 year after the original petition was filed. MCR 3.976(B)(3). A jurist determines whether reasonable efforts have been made to reunite the family and assesses a parent's progress toward reunification. A jurist determines whether the child should return home, continue in foster care or proceed to termination of parental rights. All relevant and material evidence may be received and relied upon to the extent of its probative value, even if it is not admissible at trial.

In certain cases, a jurist may determine that a guardianship through the probate court is an appropriate permanency plan. In such cases, jurisdiction may be transferred to the probate court so that a guardianship may be put into place. It is strongly urged that counsel for parents or the child become familiar with the relevant sections of the Probate Court involving guardianship.

If a termination petition is authorized, a jurist will suspend visitation by the parents, pursuant to MCL 712A.19b 712A.19b(4), unless the parents demonstrate that suspension of visitation will harm the child. Attorneys for the child and parents should be prepared to argue this issue at permanency planning hearings for continued visitation to occur.

Termination of Parental Rights, MCR 3.977

Parental rights may be terminated if requested in an original, amended or supplemental petition made by the prosecutor, agency, child, guardian, custodian, children's ombudsman, representative of the child or concerned person (as defined in MCL 712A.19b(6)). Termination may occur if one statutory basis for termination is established by clear and convincing evidence and a jurist finds that termination is clearly not contrary to the best interest of the child. The burden of proof is on the party seeking termination. There is no right to trial by jury. Termination may be considered in any of the following circumstances:

1. At initial disposition; or
2. On the basis of changed circumstances for a child under court jurisdiction; or
3. When a child is in foster care following a disposition review hearing or permanency planning hearing.

Termination of parental rights is a very complicated area of law. Counsel for the parents and the child are strongly encouraged to carefully review the applicable court rules and statutes.

When a termination of parental rights petition is filed at initial disposition, a jurist may only use legally admissible evidence for the adjudicative phase of the proceedings. The rules of evidence do not apply in determining whether termination is a child's best interest.

When a termination of parental rights petition is filed and a child is in foster care following a disposition review hearing or permanency planning hearing, a jurist may terminate parental rights only if he/she finds by clear and convincing evidence that one or more grounds exist under MCL 712A.19b(3). At a termination trial, all relevant and material evidence, including oral and written reports may be received by a jurist and may be relied upon to the extent of its probative value, even though such evidence may not be admissible at an adjudication trial.

Review of Referee Recommendations, MCR 3.991

MCR 3.991 provides for judicial review of a referee's recommendation. Within seven days of the recommendation, decision or ruling by a referee, attorneys may seek judicial review. A judge must enter an order adopting the referee's recommendation unless:

1. The judge would have reached a different result had he or she heard the case; or
2. The referee committed a clear error of law which likely would have affected the outcome or cannot otherwise be considered harmless.

The attorney requesting judicial review must submit SCAO approved form JC 42. This form is available from the jurist's office.¹ A judge is not required to schedule a hearing to rule on a request for a review. A request for review must be served on all interested parties and proof of service filed. A party may file a response within 7 days after a request for review has been filed.

MCR 3.992 provides for re-hearings and new trials. Generally a rehearing or new trial may be sought within 21 days of the date of the challenged order, or longer for good cause shown. The moving party must present a matter not previously presented to a jurist or presented but not previously considered by the jurist which, if true, would cause the jurist to reconsider the case.

Post Termination Review

Once parental rights have been terminated and the child becomes a permanent ward of the court, a review hearing must be held every 91 days for as long as the child is a ward of the court, MCL

¹ JC 42 is also available online at <http://courts.michigan.gov/scao/courtforms/juvenile/juvindex>.

712.A19(3). An exception to the 91 day rule exists for a child who, after the initial permanency planning hearing, is in a permanent foster home or who is placed with a relative. MCL 712A.19(4). In this instance, a review hearing must be held no more than 182 days after a permanency planning hearing and every 182 days for as long as the child is a ward of the court.

Only the attorney for the child and DHS caseworker are required to be present at this hearing. The purpose of this hearing is to review the progress of the adoption or other permanency plan. If the plan is adoption, an adoption worker from DHS may appear at the hearing.

Binsfeld Legislation

Any attorney who practices in the Juvenile Division of the Circuit Court must be familiar with provisions of the Binsfeld Legislation, which became effective in 1998. This legislation significantly modified several laws dealing with child protective proceedings.

The Binsfeld Legislation can be found in 1997 Public Acts 163-172. The Macomb County Bar Association also conducted a seminar on this topic. You may contact the bar office at 586-468-2940 and make arrangements to view the videotape of this seminar.

Section 2:
DELINQUENCY PROCEEDINGS
Initiating Delinquency Proceedings, MCR 3.931

Delinquency proceedings begin with the request for court action against a juvenile, filed by police in the form of a petition. The prosecuting attorney participates in delinquency proceedings on behalf of the petitioner and appears at any formal hearing. MCR 3.914. If the juvenile is not in custody and the petition is not accompanied by a request for detention, a jurist may conduct a preliminary inquiry or unofficial hearing and, under MCR 3.932, may:

1. Deny authorization of the petition;
2. Refer the matter to a public or private agency providing available services pursuant to the Juvenile Diversion Act, MCL 722.821 *et seq.* (examples include the court's substance abuse education program and traffic safety school);
3. Schedule the case to be heard informally (Diversion or Consent Calendar); or
4. Schedule the case to be heard formally, where a petition is authorized at preliminary inquiry.

Diversion Program and Consent Calendar
MCR 3.932

If a jurist receives a petition, citation or appearance ticket, and it appears that protective and supportive action by the court will serve the best interests of the juvenile and the public, the court may proceed in either the court's diversion program or on the consent calendar without authorizing a petition to be filed. No case may be placed on the consent calendar unless the juvenile and the parent, guardian or legal custodian agree to have the case placed on the consent calendar. A jurist may transfer a case from the formal calendar to the consent calendar at any time before a plea or finding of responsibility.

MCR 3.932 permits a jurist to transfer a case from unofficial status to the formal calendar when the juvenile fails to meet conditions of the alternative services programs.

Delinquency Preliminary Hearing

If a preliminary hearing is to be held, a jurist must appoint an attorney to represent the juvenile under circumstances set forth in MCR 3.915(A)(2)(a)-(e). The juvenile may waive the assistance of an attorney except where a parent or guardian ad litem objects or a jurist determines that the best interest of the juvenile or the public requires appointment.

If a juvenile is taken into custody, a preliminary hearing must begin within 24 hours but may be adjourned for up to 14 days, MCR 3.935. The juvenile must be advised of his/her constitutional rights.

At the hearing, a jurist determines if the parent has been notified and is present, or a guardian ad litem or attorney for the juvenile is present. The allegations in the petition are read and a police officer will testify as to how the juvenile came to his/her attention. Testimony is taken from the petitioner and any witnesses whom the defense, the petitioner or the prosecutor desire to have at this hearing.

A prosecutor attends this hearing and makes a recommendation regarding authorization of charges, if any. The prosecutor may seek a five-day adjournment if a waiver to adult court is to be brought.

A jurist must advise the juvenile and his or her parents of the juvenile's right to a jury trial and attorney, and the privilege against self-incrimination. There must be a determination whether there is probable cause to believe that the juvenile committed the offense. A jurist determines whether to authorize a petition and whether to detain the juvenile. A principal reason for the preliminary hearing is to determine if there is to be pretrial detention.

A juvenile may be detained if there is probable cause to believe that the juvenile committed the offense as alleged and if one or more circumstances listed in MCR 3.935(C) exists.

A jurist may use hearsay evidence at the preliminary hearing to support the finding of probable cause for pretrial detention so long as the evidence is trustworthy, MCR 3.935(D)(3). The attorney for the juvenile may cross-examine witnesses and present witnesses or other evidence, which may discourage pretrial detention. At the preliminary hearing, a jurist may divert the case to alternate services, MCR 3.935(B)(3).

The juvenile is allowed the opportunity to deny or otherwise plead to the allegations. Unless the hearing is adjourned, a jurist decides whether to authorize the petition and set the case on the formal calendar.

If a jurist authorizes the petition, he/she must:

1. Release the juvenile, in compliance with MCR 3.935(C); or
2. Detain the juvenile, in compliance with MCR 3.935(D); and
3. Determine if fingerprints must be taken as provided by MCR 3.936 and MCL 712A.11 (5).

If the juvenile is detained, he/she is entitled to bond.

If the case is expected to go to trial and/or to a permissive waiver hearing, counsel for the juvenile should request discovery of all reports prepared thus far in the case. Counsel must file a written request for discovery with the prosecutor, along with a copy of the order appointing counsel, if court appointed.

Pretrial Hearing

The pretrial hearing provides an opportunity for the prosecutor, defense attorney and police officer to engage in plea negotiations and resolve the matter without a trial. In Macomb County, the prosecutor is available and involved in pretrial hearings. The jurist at this hearing may establish time frames for discovery, motions, exchange of witness lists and bond.

If it is determined that the matter is to be set for trial before a judge or jury, then the appropriate form must be completed and submitted at a pretrial hearing. The trial date is also scheduled at this hearing.

Pleas of Admission or No Contest, MCR 3.941

The juvenile may offer a plea of admission or no contest to an offense with the consent of a jurist. The juvenile must understand the plea and it must be accurate and voluntary. As in adult criminal proceedings, the proper plea taking procedure must be followed. After the plea is taken, a jurist determines where the child is to be placed pending the disposition hearing.

Prior to the juvenile pleading, counsel must inform him/her of all possible dispositions and sanctions (i.e. sexual offender registration, HIV testing, driver's license suspensions/restrictions).

Judge and Jury Demands, MCR 3.911, 3.912

A demand for a trial by judge or jury must be filed in writing within:

1. 14 days after the jurist gives notice of the right to a jury trial, or
2. 14 days after the filing of appearance of counsel, whichever is later, but no later than 21 days before trial.

Macomb County provides judge and jury demand forms which

should be completed and submitted by the party making the demand. These forms are available from the office of the judge and referees, and should be submitted to the judge's office.

Trial, MCR 3.942

In all cases, trial must be held within six months. If the juvenile is detained and trial has not started within 63 days after the juvenile is taken into custody and the delay is not attributable to the defense, the jurist must order the juvenile released pending trial without requiring that bail be posted.

The Michigan Rules of Evidence apply at trial and the standard of proof is beyond a reasonable doubt.

Juveniles have a right to have a trial before a referee, judge or a jury.

Disposition, MCR 3.943

A disposition hearing is held to determine what measures a jurist will take concerning the juvenile who is found within the jurisdiction of the court. Possible dispositions include warning the juvenile and dismissing the petition, standard probation, intensive probation (Community Provisional Release), specialized probation programs, (Drug Court, Dual Diagnosis or JSORP), youth home detention or other out-of-home residential placement.

When a juvenile is detained, a disposition hearing must be held within 35 days except for a good cause. Otherwise, the interval between pleas of admission or trial and disposition is within a jurist's discretion. At disposition, all relevant, material evidence may be received and relied upon to the extent of its probative value, even if such evidence would not have been admissible at trial.

Prior to the hearing, defense counsel should review all documents prepared by any agency (for example DHS, psychological evaluations, mental health, child and family assessments, etc.). The juvenile's attorney must be given an opportunity to examine and controvert any written reports received and, in the jurist's discretion, may be allowed to cross-examine the individuals making the report when such individuals are reasonably available or the reports are prepared pursuant to a court-ordered examination, interview or course of treatment. The attorney should also review MCR 3.943(E)(1-7) for possible dispositions and MCL 712A.18.

MCR 3.944 provides for a hearing when it is alleged that the juvenile has violated a condition of probation or to supplement or amend any order entered in the case. If the juvenile is accused of a violation of condition of probation and denies the allegations, a jurist shall schedule a probation violation hearing within 42 days after the filing of the petition alleging a probation violation. At the hearing, the standard of proof for establishing the violation is a preponderance of the evidence. The Michigan rules of evidence, other than those with respect to privileges, do not apply and there is no right to a jury at this hearing.

Juvenile Drug Court/Dual Diagnosis

The Macomb County Juvenile Drug Court is designed for post-adjudicative juvenile offenders who require support as well as accountability for their substance abuse behaviors. Juveniles that have a substance-related petition before a jurist are referred for a substance abuse screening. If the juvenile also has a history of mental health issues, he/she may be eligible for the Dual Diagnosis program, which provides both substance abuse treatment and mental health services. Screeners determine the level of care required, whether the juvenile needs community outpatient referrals or whether he/she is to be considered for drug court or dual diagnosis programs.

The program components include assessment; intensive outpatient treatment; individual, family and group counseling; parent and adolescent support groups and controlled drug testing with graduated sanctions. Judicial and prosecutorial review of each case is scheduled on a weekly basis.

Once a juvenile is accepted into the Drug Court/Dual Diagnosis program, the matter is removed from the assigned probation officer and placed on the Drug Court/Dual Diagnosis jurist's docket.

This program is a permanent part of the Family Court structure and is funded through Macomb County, Michigan's Child Care Fund and federal grant money.

Juvenile Sex Offense Response and Prevention (JSORP)

The JSORP program is designed to provide intensive probation monitoring and treatment services to juveniles charged with a sex offense. Juveniles ordered into the program meet weekly with their probation officer, participate weekly in group therapy and with individual therapy as needed. Parents and/or guardians also participate in a weekly family support group. Review hearings are held on a regular basis.

Juveniles accused of sexually based offenses who want to discuss a plea with the prosecutor are required to undergo a Counseling Evaluation and Risk Assessment to determine the relative risk to the community and the level of treatment needed. The evaluation is provided to defense counsel and the prosecutor for plea purposes only. No information obtained in the evaluation can be used for trial purposes. The jurist does not review the evaluation until after adjudication, either by plea or after trial and then it is used for treatment purposes only. In order to be eligible for the community based JSORP or the residential program offered at the Macomb County Juvenile Justice Center (Next Step), the juvenile must admit to the offense on the record. A no contest plea renders the juvenile ineligible for these programs.

Review of Referee Recommendations, MCR 3.991

MCR 3.991 provides for judicial review of a referee's recommendation. Within seven days of the recommendation, decision or ruling by a referee, attorneys may seek judicial review. A judge must enter an order adopting the referee's recommendation unless:

1. The judge would have reached a different result had he or she heard the case; or
2. The referee committed a clear error of law which likely would have affected the outcome or cannot otherwise be considered harmless.

The attorney requesting judicial review must submit SCAO approved form JC 42. This form is available from the jurist's office. A judge is not required to schedule a hearing to rule on a request for a review. A request for review must be served on all interested parties and proof of service filed. A party may file a response within 7 days after a request for review has been filed.

MCR 3.992 provides for re-hearings and new trials. Generally a rehearing or new trial may be sought within 21 days of the date of the challenged order or longer for good cause shown. The moving party must present a matter not previously presented to a jurist or presented but not previously considered by the jurist which, if true, would cause the jurist to reconsider the case.

Juvenile Waivers/Designation in Michigan

The legislature revised the law governing juveniles in designation cases in 1999. Please refer to the statute, court rules and other resources applicable to this area of juvenile law in Michigan.

Section 3 EMANCIPATION

Emancipation may occur by operation of law or by court order pursuant to a petition filed by a minor in the Juvenile Division of the Circuit Court, as provided in MCL 722.4a to MCL 722.4e. The minor files a petition for emancipation in the Circuit Court of the county where he/she resides. MCL 722.4a - MCL 722.4e allows for minors to initiate emancipation proceedings and an order for emancipation is granted or denied by the Circuit Court. A copy of the petition and a summons to appear at the hearing shall be served on the parents or guardian. A notice of the hearing should be sent to the individual who provided the affidavit. The hearing shall be before a judge or a referee sitting without a jury. The minimum age to file a petition for emancipation is 16. Rescission of an emancipation order shall not alter any contractual obligations or rights, or property rights, or interest which arose during the period that the emancipation order was in effect.

Section 4: PARENTAL BYPASS HEARINGS

The Juvenile Division of the Circuit Court conducts parental bypass hearings. A person may not perform an abortion on a minor without written permission from the minor and at least one parent or legal guardian, MCL 722.903(1), unless the procedure is a medical emergency. If a parent or guardian is not available or refuses consent, or if the minor elects not to seek consent of a parent or guardian, the

minor may petition the Juvenile Division of the Circuit Court for a waiver of parental consent. Bypass hearings are confidential and an attorney is appointed to represent the minor filing the petition. The attorney must determine and elicit testimony demonstrating the minor is mature enough to understand the decision she is making, the medical risks, that she has an emergency plan in place if something goes wrong and anything else that would aid a jurist in determining whether the bypass of parental consent is in the minor's best interest.

Section 5: RESOURCES

Staff Comments following Subchapter 3.900 of the Michigan Court Rules.

www.ojjdp.ncjrs.org (Office of Juvenile Justice and Delinquency Prevention)

www.sado.org (State Appellate Defender Office)

www.abanet.org (American Bar Association)

www.law.umich.edu/childlaw/resourcecenter/research/index
(University of Michigan Child Welfare Law Resource Center
Research Bank)

www.michbar.org/e-journal (Free for members)

www.michiganlegislature.org (Michigan's legislature site)

www.courtsofappeals.mijud.net/digest (Michigan Appellate Digest – Free legal research site)

www.macombbar.org (MCBA Website)

www.macombcountymi.gov/circuitcourt

<http://courts.michigan.gov/scao/courtforms>

<http://courts.michigan.gov/publications.htm>