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Michigan Judicial Institute (MJL)

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

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



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Enacted Legislation

Juvenile:

[PA 50 Of 2024 \(SB 227'23\) - Emergency Safety Intervention](#)

Statute Cite: MCL 722.111 et seq.

Effective Date: 06/6/24

What it does: This bill amends the child care licensing act (1973 P A116) to allow emergency intervention in the form of physical management in certain child care organizations and requires that those interventions comply with the Mental Health Code and associated administrative rules.

Introduced Legislation

Juvenile:

[HB 5851 of 2024 - Modify References to Prostitution and Prostitute \(Child Protection Law\)](#)

Statute Cite: MCL 722.622

Tie Bar With: HB 5841'24

Status: 06/25/2024 – Introduced and Referred to Comte on Judiciary

What it does: This bill will amend the Child Protection Law to modify references to prostitution and prostitute.

[HB 5850 of 2024 - Modify References to Prostitution and Prostitute \(Child Care Organizations Act\)](#)

Statute Cite: MCL 722.115r

Tie Bar With: HB 5841'24

Status: 06/25/24 - Introduced and Referred to Comte on Judiciary

What it does: This bill will amend the Child Care Organizations act to modify references to prostitution and prostitute.

[HB 5843 Of 2024 - Modify References to Prostitution and Prostitute \(Juvenile Code\)](#)

Statute Cite: MCL 712A.2 et seq.

Tie Bar With: HB 5841'24

Status: 06/25/24 - Introduced and Referred to Comte on Judiciary

What it does: This bill will amend the Juvenile Code to modify references to prostitution and prostitute.

[HB 5842 of 2024 - Modify References to Prostitution and Prostitute \(DNA Identification Profiling System Act\)](#)

Statute Cite: MCL 28.176

Tie Bar With: None

Status: 06/25/24 - Introduced and Referred to Comte on Judiciary

What it does: This bill will amend the DNA Identification Profiling System Act to modify references to prostitution and prostitute. Additionally, this bill would eliminate the assessment of the DNA fee for a juvenile, parent, guardian, or legal custodian of a juvenile effective October 1, 2024.

[HB 5838 of 2024 - Expunction \(Human Trafficking Victim\)](#)

Statute Cite: MCL 712A.18e

Tie Bar With: None

Status: 06/25/24 - Introduced and Referred to Comte on Judiciary

What it does: This bill will amend the Juvenile Code to expand the expunction of crimes resulting from an individual being a victim of human trafficking.



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[SB 935 of 2024 - Raise the Age Fund](#)

Statute Cite: MCL 400.117i

Tie Bar With: None

Status: 06/13/24 - Introduced and Referred to Comte on Appropriations

What is does: This bill will amend the Social Welfare Act to eliminate the raise the age fund.

[SB 910 of 2024 - Child Abuse or Child Neglect Central Registry](#)

Statute Cite: MCL 722.622 et seq.

Tie Bar With: None

Status: 06/12/24 - Introduced and Referred to Comte on Civil Rights, Judiciary, and Public Safety

What is does: This bill will amend the Child Protection Law to provide for modifications to the central registry.

[SB 872 of 2024 - Use of Benefits \(Foster Care\)](#)

Statute Cite: MCL 722.951 - 722.960

Tie Bar With: None

Status: 05/14/24 - Introduced and Referred to Comte on Civil Rights, Judiciary, and Public Service

What is does: This bill will amend the Foster Care and Adoption Services Act to provide conditions on the use of certain benefits for a child in foster care.

Probate:

[HB 5883 of 2024 - Electronic Signing and Witnessing \(Eliminate Sunset\)](#)

Statute Cite: MCL 700.1202

Tie Bar With: None

Status: 06/27/24 - Introduced and Referred to Comte on Judiciary

What is does: This bill amends EPIC to eliminate sunset regarding allowing electronic signing and witnessing of certain documents under certain conditions.

[HB 5814 of 2024 - Real Estate Transfer Tax](#)

Statute Cite: MCL 700.3912

Tie Bar With: HB 5811'24

Status: 06/12/24 - Introduced and Referred to Comte on Tax Policy

What is does: This bill will amend EPIC to reflect repeal of the state real estate transfer tax.

[HB 5793 of 2024 - Uniform Statutory Rule Against Perpetuities](#)

Statute Cite: MCL 554.73 & MCL 554.75

Tie Bar With: None

Status: 06/06/24 - Introduced and Referred to Comte on Judiciary

What is does: This bill will amend the uniform statutory rule against perpetuities to reflect limitation of personal property trust perpetuities act to certain property.

[HB 925 of 2024 - Vulnerable Adult Multidisciplinary Team](#)

Statute Cite: Creates a new act.

Tie Bar With: None

Status: 06/13/24 - Introduced and Referred to Comte on Civil Rights, Judiciary, and Public Safety



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What is does: This bill will provide for the creation of a vulnerable adult multidisciplinary team and will prescribe the powers and duties of the vulnerable adult multidisciplinary team.

SB 924 of 2024 - Embezzlement from Vulnerable Adults and the Estates of Vulnerable Adults

Statute Cite: MCL 750.174a

Tie Bar With: None

Status: 06/13/24 - Introduced and Referred to Comte on Civil Rights, Judiciary, and Public Safety

What is does: This bill will amend the Michigan Penal Code to provide penalties and steps for property recovery due as a result of embezzlement from vulnerable adults and estates of vulnerable adults.

SB 923 of 2024 - Definition of Racketeering

Statute Cite: MCL 750.159g

Tie Bar With: None

Status: 06/13/24 - Introduced and Referred to Comte on Civil Rights, Judiciary, and Public Safety

What is does: This bill will amend the Michigan Penal Code to include embezzlement from a vulnerable adult in the definition of racketeering.

Elder and Vulnerable Adult Personal Protection Order

Statute Cite: MCL 600.101 - 600.9947

Tie Bar With: None

Status: 06/13/24 - Introduced and Referred to Comte on Civil Rights, Judiciary, and Public Safety

What is does: This bill will amend the Revised Judicature Act of 1961 to provide for elder and vulnerable adult personal protection orders.

Proposed Court Rules/Administrative Orders

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

None.

Adopted Court Rules/Administrative Orders

Amendments of MCR 3.901, 3.915, 3.916, 3.922, 3.932, 3.933, 3.935, 3.943, 3.944, 3.950, 3.952, 3.977, and 6.931, and Addition of MCR 3.907

ADM File: 2023-36

Issued: 06/05/2024

Effective Date: 10/01/2024

What it does: Amends several court rules in response to the Justice for Kids and Communities legislation which was prompted by the recommendations of the Michigan Task Force on Juvenile Justice Reform.

Amendment of MCR 3.967

ADM File: 2023-34

Issued: 05/22/2024

Effective: 09/01/2024

What it does: The amendment of MCR 3.967(D) aligns the rule with MCL 712B.15, as amended in 2016, to clarify the applicability of qualified expert testimony in a removal hearing involving an Indian child.



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[Amendments of MCR 3.937, 3.950, 3.955, 3.993, and 6.931](#)

ADM File: 2023-36

Issued: 05/22/2024

Effective: 10/01/2024

What it does: The amendments of MCR 3.937((A)(3), 3.950(E)(1), 3.955(C) and (E), 3.993(A)(4) and (D), and 6.931(E) implement 2023 PA 299 and incorporate additional changes from the SADO/MAACS Youth Defense Project regarding requests for and appointment of appellate counsel in cases involving juveniles.

Forms

[Explanation of Changes for PC 556 \(June 2024\)](#)

- **Petition and Order for Assignment**
- The 5/24 version includes a note to clarify when this form may be used. After further consideration, it was determined this note may not be sufficient to clarify when the small estate procedure may be used. Consequently, the note was removed.

Upcoming Trainings

[MJI Training Opportunities](#)

[Multi-Systemic Therapy \(MST\) Programming Grant Opportunity Webinar](#)

July 26, 2024 12:00 p.m. - 1:00 p.m.

Registration Link forthcoming

Colin Parks from MDHHS will be presenting on a funding opportunity for eligible courts that may have interest in implementing Multi-Systematic Therapy programming. Mr. Parks, along with the program’s collaborative partners from Mid-Michigan Industries (MMI) will provide a brief overview of MMI’s work, identify its efficacy in keeping kids out of residential care, as well as opportunities to expand similar MST programming for more juvenile justice youth and families. The program’s funding opportunity for courts will be discussed, along with shared experiences from two courts currently utilizing the funding.

UPCOMING AUGUST MJI TRAININGS

[Juvenile Probation Officer/Caseworker Certification Examination](#)

August 1, 2024 9:00 a.m. - 12:00 p.m. or 1:00 p.m. - 4:00 p.m. (Virtual)

Michigan Supreme Court Administrative Order 1985-5 requires a juvenile [court] probation officer/caseworker to complete the Michigan Judicial Institute (MJI) certification training within two years of employment.

The examination is based upon information in the MJI Juvenile Probation Officer/Caseworker Self-Instructional Manual.

The exam is a computer-based application. However, you must still preregister to take the exam. Register for only one time slot: 9 a.m. - 12:00 p.m. or 1:00 - 4:00 p.m.



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Closer to the exam date, you will receive additional information regarding accessing the State Court Administrative Office Learning Management System where the exam is housed.

Registration Deadline Date: Thursday, July 25, 2024

[New Juvenile Division Referees Webinar](#)

August 14, 2024 9:00 a.m. - 12:00 p.m. Virtual

The primary focus of this webinar is to ensure you gain a better understanding of your role and function as a jurist.

This webinar is invitation only.

[A Refresher on Termination of Parental Rights Hearings Webinar](#)

August 14, 2024 12:00 p.m. - 1:00 p.m.

This webinar will explore the nuances of termination of parental rights hearings, including the statutory grounds for the termination of parental rights, best interests of the child determinations, procedural issues, evidentiary standards, and trends in the case law.

Juvenile:

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

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

[Trauma Informed Lawyering for Lawyer Guardian Ad Litem \(Webinar\)](#)

July 23, 2024 11:30 a.m. - 1:00 p.m.

As a Lawyer Guardian Ad Litem representing children who may have been physically or emotionally hurt by their attachment figures, it is helpful to understand how trauma impacts your clients, the adults who care for them, and how it manifests in daily behaviors. Trauma informed lawyering is considered a best practice to decrease the likelihood that clients are not re-traumatized by systems and providers and helps create an effective attorney-client relationship. It is also important to recognize the impact that witnessing other's traumatic experiences has on professional practice and well-being and understand why, when, and how to get support.

Speaker: Ann Michele Stacks, PhD, Director, Infant Mental Health Program, Merrill Palmer Skillman Institute, Wayne State University

[Comfortably Uncomfortable: Destigmatizing Conversations About Sexuality and Sexual Abuse](#)

August 8, 2024 9:00 a.m. - 4:00 p.m. Detroit Marriott, Livonia, Michigan

This one-day (in person only) training will focus on how to talk about difficult, sensitive, and often taboo topics such as sexuality, sexual behavior, pornography, and technology-facilitated sexual behaviors. The presenters will review the existing research on these issues and how they are related to sexually abusive behaviors. The presenters will also emphasize the importance of evidence-based practices and discussions surrounding these topics and will utilize case studies to illustrate the dangers of misinformation and myths, in an effort to help prevent abuse against vulnerable victims.



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Target Audience: This training is intended for all child welfare professionals including prosecutors, attorneys, Lawyer Guardians Ad Litem, CPS and foster care workers, tribes, private agencies, law enforcement, medical professionals, mental health professionals, education professionals, and Foster Care Review Board members.

Speakers: Karen Holt, Ph.D. School of Criminal Justice, Michigan State University Corey Spickler, MS LLP, Sexual Abuse Prevention Services Manager, Michigan Department of Corrections James Kissinger, MA LLP, Sexual Abuse Prevention Services, Michigan Department of Corrections

[Child Psychological Maltreatment: What Multidisciplinary Team Professionals Should Know](#) (Webinar)
August 13, 2024 11:30 a.m. - 1:00 p.m.

This training will focus on forms of child abuse that harms or threatens harm to a child's health or welfare that occurs through non-accidental mental injury or psychological maltreatment.

Target Audience: This training is intended for all child welfare professionals including prosecutors, attorneys, Lawyer Guardians Ad Litem, CPS and foster care workers, tribes, private agencies, law enforcement, medical professionals, mental health providers, education professionals, and Foster Care Review Board members.

Speaker: Ashish Joshi, Owner and Managing Partner of Joshi: Attorneys + Counselors, Benjamin Burgess, MA, LLP, Fountain Hill Center

[Delivering Compassion In and Out of the Courtroom: An Applied Compassion Retreat for Child Protective Judges](#)
October 9, 2024 – October 11, 2024 Butzel Retreat Center, Ortonville, Michigan

The SCAO-Child Welfare and Juvenile Justice Services is pleased to invite judges with a child protection docket to the *Leading with the Heart Judicial Compassion Retreat*. This retreat will allow participants to step away from the busyness of their child protection dockets and reflect on how they might apply compassion to their own lives and their work with families in the child protective system. Judges will engage in guided reflections, meditations, walks, and meaningful conversation.

This training will qualify for 9.0 MCJE Credit Hours. Space is limited to 18 attendees and is being offered to judges with a child protection docket on a first come, first serve basis.

[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.



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[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.

Training dates are as follows:

- 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.



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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

Adoption – Section 45 Hearing and Discovery

“Under MCL 710.45, a family court’s review of the superintendent’s decision to withhold consent to adopt a state ward is limited to determining whether the adoption petitioner has established clear and convincing evidence that the [Michigan Children’s Institute (MCI)] superintendent’s withholding of consent was arbitrary and capricious.” *In re JCR II*, ___ Mich App ___, ___ (2024) (quotation marks and citation omitted).

“[D]iscovery is permissible in adoption cases” and “a child’s case files are relevant for purposes of determining whether the MCI superintendent’s decision to withhold consent for adoption was arbitrary and capricious.” *Id.* at ___. In this case, petitioner “sought to adopt her four grandchildren after the circuit court terminated the parental rights of the children’s biological parents,” but the superintendent of the MCI withheld consent to adopt. *Id.* at ___. After conducting a Section 45 hearing, “the circuit court concluded that the superintendent’s decision to withhold consent was not arbitrary and capricious, upheld that decision, and dismissed petitioner’s adoption petition.” *Id.* at ___. However, “the circuit court abused its discretion by declining to permit discovery of information relevant to the Section 45 hearing”—“[b]ecause petitioner was not able to access the children’s case files maintained by MCI, [the Department of Health and Human Services (DHHS)], and the involved adoption agency in discovery, she was deprived of meaningful discovery related to a hearing where her burden was to establish by clear and convincing evidence that the decision to withhold consent for adoption was arbitrary and capricious.” *Id.* at ___.

Termination of Parental Rights – Best Interests and Guardianship

“Under appropriate conditions, a trial court may forego termination and instead place a child in a guardianship”; however, “[a] trial court is not required to establish a guardianship in lieu of termination if it is not in the child’s best interests to do so.” *In re Lombard*, ___ Mich App ___, ___ (2024). “[A] trial court must refrain from implementing a blanket policy disfavoring guardianships and instead must make an individualized determination regarding a child’s best interests.” *Id.* at ___. In this case, “the trial court adopted the referee’s findings and ultimate conclusion that terminating respondent’s parental rights was in [the minor child’s] best interests”; “[h]owever, because the referee prefaced his analysis by addressing his disapproval for guardianships,” it was not possible “to distinguish the referee’s application of a generalized policy disfavoring guardianships from his individualized determination regarding [the minor



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child's] best interests." Id. at _____. Accordingly, "the trial court abused its discretion by adopting the referee's best interests determination." Id. at _____ ("remand[ing] in order for the trial court to make an individualized determination regarding [the minor child's] best interests without regard to a generalized policy disfavoring guardianship," and instructing the trial court to "refrain from referencing or considering a general policy against guardianships," "includ[ing] consideration of a general policy against guardianship for children of a certain age").

Termination of Parental Rights – Desertion of Paternity Determination

"Termination of parental rights is proper under MCL 712A.19b(3)(a)(ii) when a parent has deserted the child for 91 or more days and has not sought custody of the child during that period." *In re Knipp*, ____ Mich App ____, ____ (2024) (quotation marks and citation omitted). "The plain language of MCL 712A.19b(3)(a)(ii) does not require that the requisite 91-day period of abandonment occur after a judicial determination of paternity has been made." *Knipp*, ____ Mich App at _____. In this case, "respondent argues that the trial court erred by finding that respondent had abandoned [the minor child] for at least 91 days" because "the statutory time period only began . . . when the trial court judicially determined that he was [the minor child's] biological father." Id. at _____. However, "the actions of a putative father occurring before he perfects paternity may be considered for purposes of terminating parental rights" — "limiting consideration of a father's conduct to only the time after his paternity is legally established would contravene the fundamental purpose of child protective proceedings by excluding from consideration a parent's conduct, no matter how neglectful or egregious, until paternity was established." Id. at _____ (quotation marks and citation omitted). "Moreover, respondent was listed as the child's putative father from the beginning of the case," "yet he made no effort to establish paternity, visit, or support [the minor child] during, at least, the first nine months of these proceedings." Id. at _____. "Under these circumstances, . . . the trial court did not err by considering respondent's conduct after being ordered to determine paternity, but before a judicial determination of paternity was made, in determining whether 91 days had elapsed as required by MCL 712A.19b(3)(a)(ii)." *Knipp*, ____ Mich App at _____. Further, "the record reflects that, at the time the termination petition was filed, respondent had deserted [the minor child]" where "[a]t the time of the termination hearing, respondent had still had no contact with [the minor child] and had not even attempted to alter the conditions of his probation in order to do so." Id. at _____. "Accordingly, the trial court did not err by finding that a statutory ground for termination of respondent's parental rights existed under MCL 712A.19b(3)(a)(ii)." *Knipp*, ____ Mich App at _____.

Probate:

Guardianship – Delegation of Powers and Duties

"[A] professional guardian of an incapacitated individual must execute a power of attorney that complies with MCL 700.5103 to lawfully delegate to employees the authority to make any final decision to exercise a guardianship 'power' that is explicitly listed in MCL 700.5314 or to delegate any other final decision that would alter or impair an incapacitated individual's rights, duties, liabilities, or legal relations"; "[h]owever, a professional guardian need not comply with MCL 700.5103 to use employees to perform any other guardianship task or duty on the guardian's behalf." *In re Malloy Guardianship*, ____ Mich ____, ____ (2024), vacating 343 Mich App 548 (2022). "Moreover, a professional guardian may use employees to assist in exercising a guardianship power or to assist in deciding how to exercise these powers without complying with MCL 700.5103." *Malloy*, ____ Mich at _____. "A professional guardian who lawfully uses employees nonetheless retains the ultimate legal responsibility for ensuring that all statutory and fiduciary duties owed to an incapacitated individual are fulfilled and that they receive proper care." Id. at _____. In this case, plaintiff, an attorney and professional guardian, filed suit against defendant insurance company



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seeking reimbursement for guardianship services performed for two legally incapacitated individuals by employees of his law firm. *Id.* at _____. Plaintiff argued, and the probate court agreed, that plaintiff “only delegated his guardianship duties—but not his powers—to employees of his law firm and therefore he was not required to comply with MCL 700.5103.” *Malloy*, ___ Mich at _____. However, “neither the parties nor the probate court had appellate guidance as to the appropriate framework for assessing whether an employee lawfully performed guardianship tasks,” so remand was necessary “for the parties and probate court to reassess these cases in light of this opinion.” *Id.* at _____.