

Order

Michigan Supreme Court
Lansing, Michigan

April 14, 2009

Marilyn Kelly,
Chief Justice

ADM File No. 2008-29

Michael F. Cavanagh
Elizabeth A. Weaver
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway,
Justices

Amendment 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

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 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 are adopted, effective July 1, 2009.

[The present language is amended as indicated below, with underlining used to designate new text and strikeover used to show text that has been deleted.]

Rule 3.901 Applicability of Rules

- (A) [Unchanged.]
- (B) Application. Unless the context otherwise indicates:
- (1) MCR 3.901-3.928, 3.980, and 3.991-3.993 apply to delinquency proceedings and child protective proceedings;
 - (2) MCR 3.931-3.950 apply only to delinquency proceedings;
 - (3) MCR 3.951-3.956 apply only to designated proceedings;
 - (4) MCR 3.961-~~3.978~~3.979 apply only to child protective proceedings;
 - (5) MCR 3.981-3.989 apply only to minor personal protection order proceedings.

Rule 3.903 Definitions

(A) General Definitions. When used in this subchapter, unless the context otherwise indicates:

(1)-(2)[Unchanged.]

(3) “Confidential file” means:

(a) [Unchanged.]

(b) the contents of a social file maintained by the court, including materials such as

(i)-(vi)[Unchanged from the language of the September 30, 2008, order, which will become effective January 1, 2009.]

(vii) information regarding the identity or location of a foster parent, preadoptive parent, ~~or~~ relative caregiver, or juvenile guardian.

(4)-(10)[Unchanged.]

(11) “Guardian” means a person appointed as guardian of a child by a Michigan court pursuant to MCL 700.5204 or 700.5205, by a court of another state under a comparable statutory provision, or by parental or testamentary appointment as provided in MCL 700.5202, or a juvenile guardian appointed pursuant to MCL 712A.19a or MCL 712A.19c.

(12) “Juvenile Code” means 1944 (1st Ex Sess) PA 54, MCL 712A.1 *et seq.*, as amended.

(13) “Juvenile Guardian” means a person appointed guardian of a child by a Michigan court pursuant to MCL 712A.19a or MCL 712A.19c. A juvenile guardianship is distinct from a guardianship authorized under the Estates and Protected Individuals Code.

(13)-(26)[Former (13)-(26) are renumbered (14)-(27), but otherwise unchanged.]

(B)-(E)[Unchanged.]

Rule 3.921 Persons Entitled to Notice

(A)-(B)[Unchanged.]

(C) Juvenile Guardianships. In a juvenile guardianship, the following persons shall be entitled to notice:

- (1) the child, if 11 years old or older;
- (2) the Department of Human Services;
- (3) the parents of the child, unless parental rights over the child have been terminated;
- (4) the juvenile guardian or proposed juvenile guardian;
- (5) any court that previously had jurisdiction over the child in a child protective proceeding, if different than the court that entered an order authorizing a juvenile guardianship;
- (6) the attorneys for any party;
- (7) the prosecuting attorney, if the prosecuting attorney has appeared in the case;
- (8) if the child is a member of a federally recognized Indian tribe, the child's tribe, Indian custodian, or if the tribe is unknown, the Secretary of the Interior;
- (9) the Michigan Children's Institute superintendent;
- (10) any other person the court may direct to be notified.

(C)-(D)[Former (C)-(D) are relettered (D)-(E), but otherwise unchanged.]

Rule 3.965 Preliminary Hearing

(A)-(D) [Unchanged.]

(E) 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; ~~and~~
- (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.

Rule 3.975 Post-~~D~~dispositional Procedures: Child in Foster Care

(A)-(E) [Unchanged.]

(F) Criteria.

- (1) Review of Case Service Plan. The court, in reviewing the progress toward compliance with the case service plan, must consider:
 - (a) the services provided or offered to the child and parent, guardian, or legal custodian of the child;
 - (b) whether the parent, guardian, or legal custodian has benefited from the services provided or offered;

- (c) the extent of parenting time or visitation, including a determination regarding the reasons either was not frequent or never occurred;
 - (d) the extent to which the parent, guardian, or legal custodian complied with each provision of the case service plan, prior court orders, and any agreement between the parent, guardian, or legal custodian and the agency;
 - (e) any likely harm to the child if the child continues to be separated from his or her parent, guardian, or custodian; and
 - (f) any likely harm to the child if the child is returned to the parent, guardian, or legal custodian.
- (2) Progress Toward Returning Child Home. The court must decide the extent of the progress made toward alleviating or mitigating conditions that caused the child to be, and to remain, in foster care. The court shall also review the concurrent plan, if applicable.

(G)-(H) [Unchanged.]

Rule 3.976 Permanency Planning Hearings

(A)-(C) [Unchanged.]

(D) Hearing Procedure; Evidence.

- (1) Procedure. Each permanency planning hearing must be conducted by a judge or a referee. Paper reviews, ex parte hearings, stipulated orders, or other actions that are not open to the participation of (a) the parents of the child, unless parental rights have been terminated; (b) the child, if of appropriate age; and (c) foster parents or preadoptive parents, if any, are not permanency planning hearings.
- (2) Evidence. The Michigan Rules of Evidence do not apply, other than those with respect to privileges, except to the extent such privileges are abrogated by MCL 722.631. At the permanency planning hearing all relevant and material evidence, including oral and written reports, may be received by the court and may be relied upon to the extent of its probative value. The court must consider any written or oral information concerning the child from the child's parent, guardian, custodian, foster parent, child caring

institution, or relative with whom the child is placed, in addition to any other evidence offered at the hearing. The court shall obtain the child's views regarding the permanency plan in a manner appropriate to the child's age. The parties must be afforded an opportunity to examine and controvert written reports so-received by the court and may be allowed to cross-examine individuals who made the reports when those individuals are reasonably available.

(E) Determinations; Permanency Options.

(1) In the case of a child who will not be returned home, the court shall consider in-state and out-of-state placement options. In the case of a child placed out of state, the court shall determine whether the out-of-state placement continues to be appropriate and in the child's best interests. The court shall ensure that the agency is providing appropriate services to assist a child who will transition from foster care to independent living.

~~(1)~~(2) Determining Whether to Return Child Home. At the conclusion of a permanency planning hearing, the court must order the child returned home unless it determines that the return would cause a substantial risk of harm to the life, the physical health, or the mental well-being of the child. Failure to substantially comply with the case service plan is evidence that the return of the child to the parent may cause a substantial risk of harm to the child's life, physical health, or mental well-being. In addition, the court shall consider any condition or circumstance of the child that may be evidence that a return to the parent would cause a substantial risk of harm to the child's life, physical health, or mental well-being.

~~(2)~~(3) Continuing Foster Care Pending Determination on Termination of Parental Rights. If the court determines at a permanency planning hearing that the child should not be returned home, it ~~must~~ may order the agency to initiate proceedings to terminate parental rights, ~~unless the agency demonstrates to the court and the court finds that it is clearly not in the best interests of the child to presently begin proceedings to terminate parental rights. The order must specify the time within which the petition must be filed, which may not be more than 42 days after the date of the order.~~ Except as otherwise provided in this subsection, if the child has been in foster care under the responsibility of the state for 15 of the most recent 22 months, the court shall order the agency to initiate proceedings to terminate parental rights. If the court orders the agency to initiate proceedings to terminate parental rights, the order must specify the date, or the time within which the petition must be filed. In either case, the petition must be filed no later than 28 days after the date the permanency planning hearing is concluded. The

court is not required to order the agency to initiate proceedings to terminate parental rights if one or more of the following apply:

- (a) The child is being cared for by relatives.
- (b) The case service plan documents a compelling reason for determining that filing a petition to terminate parental rights would not be in the best interests of the child. A compelling reason not to file a petition to terminate parental rights includes, but is not limited to, any of the following:
 - (i) Adoption is not the appropriate permanency goal for the child.
 - (ii) No grounds to file a petition to terminate parental rights exist.
 - (iii) The child is an unaccompanied refugee minor as defined in 45 CFR 400.111.
 - (iv) There are international legal obligations or compelling foreign policy reasons that preclude terminating parental rights.
- (c) The state has not provided the child's family, during the period set in the case service plan, with the services the state considers necessary for the child's safe return to his or her home, if reasonable efforts to reunify the family are required.

~~(3)~~(4) Other Permanency Plans. If the court does not return the child to the parent, guardian, or legal custodian, and if the agency demonstrates that termination of parental rights is not in the best interests of the child, the court may

- (a) continue the placement of the child in foster care for a limited period to be set by the court while the agency continues to make reasonable efforts to finalize the court-approved permanency plan for the child,
~~or~~
- (b) place the child with a fit and willing relative,~~or~~
- (c) upon a showing of compelling reasons, place the child in an alternative planned permanent living arrangement, or

- (d) appoint a juvenile guardian for the child pursuant to MCL 712A.19a and MCR 3.979.

The court must articulate the factual basis for its determination in the court order adopting the permanency plan.

Rule 3.977 Termination of Parental Rights

(A)-(C) [Unchanged.]

- (D) ~~Suspension of Parenting Time. If a petition to terminate parental rights to a child is filed, the court may suspend parenting time for a parent who is a subject of the petition, ~~is automatically suspended and, except as otherwise provided in this subsection, remains suspended at least until a decision is issued on the termination petition. If a parent whose parenting time is suspended establishes, and the court determines, that parenting time will not harm the child, the court may order parenting time in the amount and under the conditions the court determines appropriate.~~~~
- (E) Termination of Parental Rights at the Initial Disposition. The court shall order termination of the parental rights of a respondent at the initial dispositional hearing held pursuant to MCR 3.973, and shall order that additional efforts for reunification of the child with the respondent shall not be made, if
- (1) the original, or amended, petition contains a request for termination;
 - (2) at the trial or plea proceedings, the trier of fact finds by a preponderance of the evidence that one or more of the grounds for assumption of jurisdiction over the child under MCL 712A.2(b) have been established;
 - (3) at the initial disposition hearing, the court finds on the basis of clear and convincing legally admissible evidence that had been introduced at the trial or plea proceedings, or that is introduced at the dispositional hearing, that one or more facts alleged in the petition:
 - (a) are true, and
 - (b) establish grounds for termination of parental rights under MCL 712A.19b(3)(a), (b), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), or (n);

(4) termination of parental rights is in the child's best interests.

~~; unless the court finds by clear and convincing evidence, in accordance with the rules of evidence as provided in subrule (G)(2), that termination of parental rights is not in the best interests of the child.~~

(F) Termination of Parental Rights on the Basis of Different Circumstances. The court may take action on a supplemental petition that seeks to terminate the parental rights of a respondent over a child already within the jurisdiction of the court on the basis of one or more circumstances new or different from the offense that led the court to take jurisdiction.

(1) The court must order termination of the parental rights of a respondent, and must order that additional efforts for reunification of the child with the respondent must not be made, if

(a) the supplemental petition for termination of parental rights contains a request for termination;

(b) at the hearing on the supplemental petition, the court finds on the basis of clear and convincing legally admissible evidence that one or more of the facts alleged in the supplemental petition:

(i) are true; and

(ii) come within MCL 712A.19b(3)(a), (b), (c)(ii), (d), (e), (f), (g), (i), (j), (k), (l), (m), or (n); and

(c) termination of parental rights is in the child's best interests.

~~unless the court finds by clear and convincing evidence, in accordance with the rules of evidence as provided in subrule G(2), that termination of parental rights is not in the best interests of the child.~~

(2) Time for Hearing on Petition. The hearing on a supplemental petition for termination of parental rights under this subrule shall be held within 42 days after the filing of the supplemental petition. The court may, for good cause shown, extend the period for an additional 21 days.

(G) Termination of Parental Rights; Other. If the parental rights of a respondent over the child were not terminated pursuant to subrule (E) at the initial dispositional

hearing or pursuant to subrule (F) at a hearing on a supplemental petition on the basis of different circumstances, and the child is within the jurisdiction of the court, the court must, if the child is in foster care, or may, if the child is not in foster care, following a dispositional review hearing under MCR 3.975, a progress review under MCR 3.974, or a permanency planning hearing under MCR 3.976, take action on a supplemental petition that seeks to terminate the parental rights of a respondent over the child on the basis of one or more grounds listed in MCL 712A.19b(3).

(1) Time.

(a) Filing Petition. The supplemental petition for termination of parental rights may be filed at any time after the initial dispositional review hearing, progress review, or permanency planning hearing, whichever occurs first.

(b) Hearing on Petition. The hearing on a supplemental petition for termination of parental rights under this subrule must be held within 42 days after the filing of the supplemental petition. The court may, for good cause shown, extend the period for an additional 21 days.

(2) Evidence. The Michigan Rules of Evidence do not apply, other than those with respect to privileges, except to the extent such privileges are abrogated by MCL 722.631. At the hearing all relevant and material evidence, including oral and written reports, may be received by the court and may be relied upon to the extent of its probative value. The parties must be afforded an opportunity to examine and controvert written reports ~~so received~~ by the court and shall be allowed to cross-examine individuals who made the reports when those individuals are reasonably available.

(3) Order. The court must order termination of the parental rights of a respondent and must order that additional efforts for reunification of the child with the respondent must not be made, if the court find~~son the basis of clear and convincing evidence admitted pursuant to subrule (G)(2) that one or more facts alleged in the petition~~

(a) on the basis of clear and convincing evidence admitted pursuant to subrule (G)(2) that one or more facts alleged in the petition:

(i) are true;⁵ and

(ii) come within MCL 712A.19b(3).⁵

(b) that termination of parental rights is in the child's best interests.

~~unless the court finds by clear and convincing evidence that termination of parental rights to the child is not in the best interest of the child.~~

(H)-(J) [Unchanged.]

Rule 3.978 Post-Termination Review Hearings

(A)-(B) [Unchanged.]

(C) Findings. The court must make findings on whether reasonable efforts have been made to establish permanent placement for the child, and may enter such orders as it considers necessary in the best interests of the child, including appointment of a juvenile guardian pursuant to MCL 712A.19c and MCR 3.979.

(D) Termination of Jurisdiction. The jurisdiction of the court in the child protective proceeding may terminate when a court of competent jurisdiction enters an order ~~terminating the rights of the entity with legal custody and enters an order placing the child for adoption:~~

(1) terminating the rights of the entity with legal custody and enters an order placing the child for adoption, or

(2) appointing a juvenile guardian under MCR 3.979 after conducting a review hearing under subsection (A) of this rule.

[MCR 3.979 is a new rule.]

Rule 3.979 Juvenile Guardianships

(A) Appointment of Juvenile Guardian; Process. If the court determines at a posttermination review hearing or a permanency planning hearing that it is in the child's best interests, the court may appoint a juvenile guardian for the child pursuant to MCL 712A.19a or MCL 712A.19c.

(1) Under MCR 3.979(A), the court shall order the Department of Human Services to:

- (a) conduct a criminal record check and central registry clearance of the residents of the home and submit the results to the court within 7 days; and
 - (b) perform a home study with a copy to be submitted to the court within 28 days, unless a home study has been performed within the immediately preceding 365 days, in which case a copy of that home study shall be submitted to the court.
- (2) If a child for whom a juvenile guardianship is proposed is in foster care, the court shall continue the child's placement and order the information required above about the proposed juvenile guardian. If the information required above has already been provided to the court, the court may issue an order appointing the proposed juvenile guardian pursuant to subrule (B).
- (3) If the parental rights over a child who is the subject of a proposed juvenile guardianship have been terminated, the court shall not appoint a guardian without the written consent of the Michigan Children's Institute (MCI) superintendent. The court may order the Department of Human Services to seek the consent of the MCI superintendent. The consent must be filed with the court no later than 28 days after the permanency planning hearing or the posttermination review hearing, or such longer time as the court may allow for good cause shown.
 - (a) If a person denied consent believes that the decision to withhold consent by the MCI superintendent is arbitrary or capricious, the person may file a motion with the court within 56 days of receipt of the decision to deny consent. A motion under this subsection shall contain information regarding both of the following:
 - (i) the specific steps taken by the person or agency to obtain the consent required and the results, if any, and
 - (ii) the specific reasons why the person or agency believes that the decision to withhold consent was arbitrary or capricious.
 - (b) If a motion alleging that the MCI superintendent's failure to consent was arbitrary or capricious, the court shall set a hearing date and ensure that notice is provided to the MCI superintendent and all parties entitled to notice under MCR 3.921.

- (c) If a hearing is held and the court finds by clear and convincing evidence that the decision to withhold consent was arbitrary or capricious, the court may approve the guardianship without the consent of the MCI superintendent.

The court shall determine the continuing necessity and appropriateness of the child's placement.

- (B) Order Appointing Juvenile Guardian. After receiving the information ordered by the court under subsection (A)(1), and after finding that appointment of a juvenile guardian is in the child's best interests, the court may enter an order appointing a juvenile guardian. The order appointing a juvenile guardian shall be on a form approved by the state court administrator. Within 7 days of receiving the information, the court shall enter an order appointing a juvenile guardian or schedule the matter for a hearing. A separate order shall be entered for each child.
 - (1) Acceptance of Appointment. A juvenile guardian appointed by the court shall file an acceptance of appointment with the court on a form approved by the state court administrator. The acceptance shall state, at a minimum, that the juvenile guardian accepts the appointment, submits to personal jurisdiction of the court, will not delegate the juvenile guardian's authority, and will perform required duties.
 - (2) Letters of Authority. On the filing of the acceptance of appointment, the court shall issue letters of authority on a form approved by the state court administrator. Any restriction or limitation of the powers of the juvenile guardian must be set forth in the letters of authority, including but not limited to, not moving the domicile of the child from the state of Michigan without court approval.
 - (3) Certification. Certification of the letters of authority and a statement that on a given date the letters are in full force and effect may appear on the face of copies furnished to the juvenile guardian or interested persons.
 - (4) Notice. Notice of a proceeding relating to the juvenile guardianship shall be delivered or mailed to the juvenile guardian by first-class mail at the juvenile guardian's address as listed in the court records and to his or her address as then known to the petitioner. Any notice mailed first class by the court to the juvenile guardian's last address on file shall be considered notice to the juvenile guardian.

- (C) Court Jurisdiction; Review Hearings; Lawyer Guardian ad Litem. The court's jurisdiction over a juvenile guardianship shall continue until terminated by court order. The court's jurisdiction over a juvenile under section 2(b) of the Juvenile Code, MCL 712A.2(b), and the jurisdiction of the MCI under section 3 of 1935 PA 220, MCL 400.203, shall be terminated after the court appoints a juvenile guardian under this section and conducts a review hearing pursuant to MCR 3.975 when parental rights to the child have not been terminated, or a review hearing pursuant to MCR 3.978 when parental rights to the child have been terminated. The review hearing following appointment of the juvenile guardian must be conducted within 91 days of the most recent review hearing if it has been one year or less from the date the child was last removed from the home, or within 182 days of the most recent review hearing if it has been more than one year from the date the child was last removed from the home. The appointment of the lawyer-guardian ad litem in the child protective proceeding terminates upon entry of the order terminating the court's jurisdiction pursuant to MCL 712A.2(b). At any time after a juvenile guardian is appointed, the court may reappoint the lawyer-guardian ad litem or may appoint a new lawyer-guardian ad litem if the court is satisfied that such action is warranted. A lawyer-guardian ad litem appointed under this subrule is subject to the provisions of MCL 712A.17d.
- (D) Court Responsibilities.
- (1) Annual Review. The court shall conduct a review of a juvenile guardianship annually. The review shall be commenced within 63 days after the anniversary date of the appointment of the guardian. The court may conduct a review of a juvenile guardianship at any time it deems necessary. If the report of the juvenile guardian has not been filed as required by subrule (E)(1), the court shall take appropriate action.
 - (2) Investigation. The court shall appoint the Department of Human Services or another person to conduct an investigation of the juvenile guardianship of a child when deemed appropriate by the court or upon petition by the Department of Human Services or an interested person. The investigator shall file a written report with the court within 28 days of such appointment and shall serve it on the other interested parties listed in MCR 3.921(C). The report shall include a recommendation regarding whether the juvenile guardianship should continue or be modified and whether a hearing should be scheduled. If the report recommends modification, the report shall state the nature of the modification.
 - (3) Judicial Action. After informal review of the report provided in subrule (D)(2), the court shall enter an order denying the modification or set a date for a hearing to be held within 28 days.

- (4) Upon notice of a child's death the court shall enter an order of discharge. The court may schedule a hearing on the matter before entering an order of discharge.
- (E) Duties and Authority of Guardian Appointed to Juvenile Guardianship. A juvenile guardianship approved under these rules is authorized by the Juvenile Code and is distinct from a guardianship authorized under the Estates and Protected Individuals Code. A juvenile guardian has all the powers and duties of a guardian set forth under section 5215 of the Estates and Protected Individual's Code.
- (1) Report of Juvenile Guardian. A juvenile guardian shall file a written report annually within 56 days after the anniversary of appointment and at other times as the court may order. Reports must be on a form approved by the state court administrator. The juvenile guardian must serve the report on the persons listed in MCR 3.921.
 - (2) Petition for Conservator. At the time of appointing a juvenile guardian or during the period of the juvenile guardianship, the court shall determine whether there would be sufficient assets under the control of the juvenile guardian to require a conservatorship. If so, the court shall order the juvenile guardian to petition the probate court for a conservator pursuant to MCL 700.5401 *et seq.*
 - (3) Address of Juvenile Guardian. The juvenile guardian must keep the court informed in writing within 7 days of any change in the juvenile guardian's address.
 - (4) The juvenile guardian shall provide the court and interested persons with written notice within 14 days of the child's death.
- (F) Revocation or Termination of Guardianship.
- (1) Motion or Petition.
 - (a) Revocation of Juvenile Guardianship. The court shall, on its own motion or upon petition from the Department of Human Services or the child's lawyer-guardian ad litem, hold a hearing to determine whether a juvenile guardianship established under this section shall be revoked.

- (b) Termination of Juvenile Guardian and Appointment of Successor. A juvenile guardian or other interested person may petition the court for permission to terminate the guardianship. A petition may include a request for appointment of a successor juvenile guardian.
- (2) Hearing. If a petition for revocation or termination is filed with the court, the court shall hold a hearing within 28 days to determine whether to grant the petition to revoke or terminate the juvenile guardianship. The court may order temporary removal of the child under MCR 3.963 to protect the health, safety, or welfare of the child, pending the revocation or termination hearing. If the court orders removal of the child from the juvenile guardian to protect the child's health, safety, or welfare, the court must proceed under MCR 3.974(B).
- (3) Investigation and Report. In preparation for the revocation or termination hearing, the court shall order the Department of Human Services to perform an investigation and file a written report of the investigation. The report shall be filed with the court no later than 7 days before the hearing. The report shall include the reasons for terminating a juvenile guardianship or revoking a juvenile guardianship, and a recommendation regarding temporary placement, if necessary.
- (4) Notice. The court shall ensure that interested persons are given notice of the hearing as provided in MCR 3.920 and MCR 3.921. The court may proceed in the absence of interested persons provided that proper notice has been given. The notice must inform the interested persons of their opportunity to participate in the hearing and that any information they wish to provide should be submitted in advance to the court, the agency, the lawyer-guardian ad litem for the child, and an attorney for one of the parties.
- (5) Action Following Motion or Petition to Revoke Juvenile Guardianship. After notice and a hearing on a petition to revoke the juvenile guardianship, if the court finds by a preponderance of evidence that continuation of the juvenile guardianship is not in the child's best interests, and upon finding that it is contrary to the welfare of the child to be placed in or remain in the juvenile guardian's home and that reasonable efforts were made to prevent removal, the court shall revoke the juvenile guardianship. The court shall enter an order revoking the juvenile guardianship and placing the child under the care and supervision of the Department of Human Services on a form approved by the state court administrator. Jurisdiction over the child under MCL 712A.2(b) is reinstated under the previous child protective proceeding upon entry of the order revoking the juvenile guardianship.

- (6) Action Following Petition to Terminate Appointment of Juvenile Guardian. After notice and a hearing on a petition to terminate the appointment of a juvenile guardian, if the court finds it is in the child's best interests to terminate the appointment and if there is:
- (a) no successor, the court shall proceed according to subrule (F)(5); or
 - (b) a successor, the court shall terminate the appointment of the juvenile guardian and proceed with an investigation and appointment of a successor juvenile guardian in accordance with the requirements of this rule, and the court's jurisdiction over the juvenile guardianship shall continue. An order terminating a juvenile guardianship and appointing a successor juvenile guardian shall be entered on a form approved by the state court administrator.
- (7) Dispositional Review Hearing. The court shall hold a dispositional review hearing pursuant to MCR 3.973 or MCR 3.978 within 42 days of revocation of a juvenile guardianship. The Department of Human Services shall prepare a case service plan and file it with the court no later than 7 days before the hearing. Subsequent postdispositional review hearings shall be scheduled in conformity with MCR 3.974 and MCR 3.975.

Staff Comment: 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.

The staff comment is not an authoritative construction by the Court.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 14, 2009

Corbin R. Davis

Clerk