

MICHIGAN STATE
UNIVERSITY
COLLEGE OF LAW

Special Immigrant Juvenile Status in Michigan¹

I. Introduction

Pursuant to INA §101 (a)(27)(j), an applicant for Special Immigrant Juvenile Status (SIJS) must establish that he or she has been declared dependent on a juvenile court because (1) reunification with one or both parents is not a viable option due to abuse, neglect, abandonment, or a similar basis found under State law; and (2) it is not in the applicant’s best interest to be returned to his or her country of nationality.

This memorandum focuses on the proper mechanisms for obtaining a predicate order in Michigan. Notably, Michigan defines a “child” as an “individual who is younger than 18 years of age,” which in practice usually means the courts cannot take jurisdiction over a person over 18. MCL 722.1102. The predicate order must state that the applicant is a dependent of the juvenile court or the court must have legally committed the child to, or placed him or her under the custody of, an agent or department of a state, or an individual or entity appointed by a state or juvenile court. Immigrant Legal Resource Center, *Immigrant Legal Resource Center Publications* < http://www.ilrc.org/files/2010_sijs-chapter_03-sijs_overview.pdf> (accessed April 4, 2014). As a practical matter, this broad definition includes dependency, delinquency, and probate proceedings. *Id.* Actions such as guardianship, custody, adoption, and children in delinquency actions could serve as a platform for the state court to take the jurisdiction over a minor and make the requisite findings. *Id.* In Michigan, examples could include the following types of actions:

Guardianship. The Estates and Protected Individuals Code (“EPIC”), MCL 700.1101 *et seq.*, governs guardianships and conservatorships. The probate court has jurisdiction over most guardianships, but the family division of the circuit court also has ancillary jurisdiction. *See* MCL 600.841; 600.1021. A guardian is defined as “a person who has qualified as a guardian of a minor or a legally incapacitated individual under a parental or spousal nomination or a court appointment and includes a limited guardian.” MCL 700.1104(*l*). The standard the court looks to when determining whether to appoint a guardian is whether the welfare of the minor, incapacitated individual, or developmentally disabled person will be served by the appointment.²

¹ This overview is based on a memorandum originally drafted by Student Clinician Yuan Jiang of the Michigan State University College of Law Immigration Law Clinic, Spring 2014.

² The court may appoint a guardian if:

2 Kelly, Curtis & Roane, *Michigan Family Law* (7th ed), §22.1, p 22-4. A guardianship is terminated when the minor turns 18, if the guardian or minor die, or if the minor is adopted or gets married. *Id.* The court must annually review a guardianship for a minor under the age of six. *Id.*

There are three types of guardianships for minors: temporary, full, and limited. Kelly *et al.*, §22.1, p 22-4. A temporary guardian will only be appointed by a court during the pendency of guardianship proceedings or if the current guardian is not properly performing his or her responsibilities. *Id.* at § 22.3, p. 22-6. A petition for full guardianship can be filed by any interested person or by the minor if he or she is 14 years old or older. *Id.* at § 22.6, p. 22-8. By contrast, only the child's parent can file a petition for limited guardianship. *Id.* at § 22.13, p. 22-11. A limited guardian, unlike a full guardian, may not consent to a ward's adoption or marriage of a minor ward. MCL 700.5206(4). A limited guardian may petition to be appointed as a full guardian.

Paternity. The Michigan Paternity Act confers jurisdiction on the circuit courts to make legal determinations as to paternity and to compel or provide for the support of children based on such determinations. MCL 722.711 *et seq.* If a determination of paternity is made, then the court must enter an order of filiation, which provides for support, payment of health care costs, and health insurance where reasonable. Kelly *et al.*, § 21.1, p 21-4. The family division of the circuit court has exclusive jurisdiction over paternity actions. MCL 600.1021(1)(h). To establish standing, the plaintiff must allege that the child was born out of wedlock. Mothers generally have standing to bring a paternity action regarding their kids, but putative fathers may not, especially if the mother was married at the time of conception. *See* Kelly *et al.*, § 21.8, p 21-11.

Child protection. Child protective proceedings are governed by the Child Protection Law, MCL 722.621 *et seq.*; as well as the Juvenile Code, MCL 712A.1 *et seq.*; and subchapter 3.900 of the Michigan Court Rules; so long as the child is not an American Indian.

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- (a) The parental rights of both parents or the surviving parent are terminated or suspended by prior court order, by judgment of divorce or separate maintenance, by death, by judicial determination of mental incompetency, by disappearance, or by confinement in a place of detention.
 - (b) The parent or parents permit the minor to reside with another person and do not provide the other person with legal authority for the minor's care and maintenance, and the minor is not residing with his or her parent or parents when the petition is filed.
 - (c) All of the following:
 - (i) The minor's biological parents have never been married to one another.
 - (ii) The minor's parent who has custody of the minor dies or is missing and the other parent has not been granted legal custody under court order.
 - (iii) The person whom the petition asks to be appointed guardian is related to the minor within the fifth degree by marriage, blood, or adoption.

MCL 700.5204(2).

600.1021(1)(e). The family division of the circuit court has jurisdiction over such actions. MCL 600.1021(1)(e).

Whenever a child has been moved from one state to another, e.g., by the Office of Refugee Resettlement (“ORR”) during time spent in federal immigration custody, practitioners should verify whether another state court has issued any child-custody determination. This is because the move could trigger analysis under the Uniform Child Custody Jurisdiction and Enforcement Act (“UCCJEA”). *See* MCL 722.1101 et seq. The UCCJEA provides for continuing, exclusive jurisdiction of the court in a child’s “home state” that was first to take jurisdiction in a child-custody matter. *See* MCL 722.1201(1)(a)–(b). On an international level, this is comparable to the jurisdictional rule that the Hague Convention on International Child Abduction imposes when children are taken across international borders. The UCCJEA does not mean that an initial child-custody determination by another state court will make it impossible for a Michigan court to establish jurisdiction, but additional steps must be taken. A Michigan court may modify a prior out-of-state order, for example, where (a) the other state court determines it no longer has exclusive jurisdiction or Michigan “would be a more convenient forum”; or (b) a Michigan court determines that “neither the child, nor the parent of the child, nor a person acting as a parent presently resides in the other state.” *See* MCL 722.1203. In many cases with a history of ORR transfers from one state to another, subpart (b) would apply because neither the child, nor his or her parents will be present in the state where a court took initial jurisdiction. Nonetheless, practitioners may work with the initial state court to communicate with the Michigan courts to lay the necessary groundwork.

Given the special, constitutional protections afforded to family relationships, procedural due process must be guarded, and, for example, parents must almost always receive a hearing before the state may remove a child from parental custody. *See Kelly et al.*, § 23.6, p 23-8. Also, although the court may take jurisdiction of a child through one parent’s adjudication, an unadjudicated parent is presumptively fit and cannot, consistent with due process, be part of a dispositional order. *In re Sanders*, 495 Mich 394 (2014). So a parent not deemed a respondent by the court can be a party to the proceedings, but no action can be taken to curtail his or her rights. *See id.*

Custody. Actions involving disputes over custody of a minor are governed by MCL 722.21 et seq., known as the Child Custody Act of 1970. *Kelly et al.*, §12.1, p 12-3. That Act requires the court to assess the ability of each parent to care for his or her children. *Id.* These actions are frequently incident to a divorce.³ The act standardizes the criteria for the *best*

³ Notably, Michigan Court Rule 3.201(B) allows such proceedings to include persons who are over 18 in “circumstances where the legislature has so provided. Also note that: (1) Michigan courts may not exercise jurisdiction if a proceeding concerning the child has already been commenced in a court of another state in conformity with the Uniform Child Custody Jurisdiction and Enforcement Act, and the court may choose not to exercise jurisdiction if

*interests*¹ of the child. *Id.* The court rules used for obtaining custody are also applicable to paternity actions. MCR 3.201(A)(1). If the child has moved from one state to another in the pendency of a custody matter, practitioners are advised to consider the UCCJEA implications of that move, and whether courts in a new state must defer to a prior state's order. *See supra, Child protection.*

Juvenile delinquency. Delinquency proceedings concern juveniles under age 17 who are charged with a violation of a criminal law, criminal ordinance, or traffic law, or with a status offense, e.g. running away from home, incorrigibility, truancy, or status as a so-called "wayward minor." Michigan Judicial Institute, *Juvenile Justice Benchbook* § 1.1(A). Children under the jurisdiction of delinquency courts who will not be reunified with their parents due to abuse, neglect or abandonment may seek an order making the findings necessary for SIJS.⁴ Immigrant SIJS Benchbook, *Immigrant Legal Resource Center Publications* <http://www.ilrc.org/files/2010_sijs_benchbook.pdf> (accessed April 7, 2014). Practitioners should take special care to review juvenile delinquency cases for issues triggering inadmissibility.⁵

Adoption. The Michigan adoption code, MCL 710.21 et seq., provides the adoption framework within the state and sets forth procedures and safeguards to promote the best interests of adoptees and to protect the rights of all parties concerned. Kelly et al., §21.37, p 21-42. "The Michigan adoption scheme expresses a policy of severing, at law, the prior, natural family relationships and creating a new and complete substitute relationship after adoption." *Bikos v. Nobliski*, 88 Mich App 157, 165, 276 NW2d 541 (1979); *see also In re Toth*, 227 Mich App 548, 577 NW2d 111 (1998). Notably, if an SIJS predicate order is obtained during an adoption proceeding, the practitioner should ensure that the court's jurisdiction is ongoing at the time of an I-360 application. Therefore, the state court must not have terminated its jurisdiction, as may occur at the end of an adoption proceeding. See 8 C.F.R. 204.11(c)(5).

another state is a more convenient or appropriate location. *See* MCL 722.1207(2) (listing relevant considerations, including the length of time the child has remained in the state); and (2) that, for the purposes of and SIJS predicate order, the court's jurisdiction must be ongoing at the time of application, so the court must not have terminated its jurisdiction, as may occur at the end of a proceeding. *See* 8 C.F.R. 204.11(c)(5).

⁴ Because a practitioner may not initiate a delinquency proceeding, the procedures for doing so are not discussed further herein.

⁵ However, the longstanding rule of the Board of Immigration Appeals is "that acts of juvenile delinquency are not crimes, and that findings of juvenile delinquency are not convictions for immigration purposes." *In re Miguel Devison-Charles, Respondent*, 22 I. & N. Dec. 1362, 1365 (B.I.A. 2000) (en banc). Even an admission of having committed an offense prosecuted in juvenile court does not qualify as an admission of a crime. Rather, for a juvenile, the admission is as to a juvenile delinquency, not a crime. *See In the Matter of F---*, 4 I. & N. Dec. 726, 728 (B.I.A. 1952); *In the Matter of M---U---*, 2 I. & N. Dec. 92, 93 (B.I.A. 1944).

II. Overview of procedures for actions in Michigan

A. Guardianships

Procedure for filing:

- A guardianship action begins with a petition in the probate court, which must comply with MCR 8.119(C). The petitioner should state in the petition whether or not the minor is an Indian Child or whether that fact is unknown.⁶ MCR 5.404(A). The State Court Administrative Office (“SCAO”)⁷ forms are preferable. The petition must include:
 - Allegations and representations sufficient to justify the relief sought;
 - Identify petitioner and his or her interest;
 - Include jurisdictional allegations, e.g. age and location of parties;
 - Indicate all interested persons, their capacity, contact information, and any representation or need for representation.
- Some courts require a social history. The social history of minor guardianship is confidential, and only to be released on order of the court. The social history should be filed using the appropriate SCAO form, PC 670.
- Guardianship filing fees may be waived for applicants who are indigent, or receiving public assistance. MCR 2.002. To waive the filing fees, applicants need to submit MC 20 Form—Waiver/Suspension of Fees and Costs. (See MC 20 Form attached.)
- According to MCR 50125(C)(19), notice of the hearing, using SCAO form PC 562, must be served on:
 - The minor, if 14 years old or older;
 - Each person who had principal care of the minor in the 63 days before the petition was filed;
 - The minor’s parents, but not necessarily the biological father of a child born out of wedlock;
 - The nominated guardian.
- Service may be personal, by mail, or by publication if a person’s address or whereabouts is unknown. *See* MCR 5.108. Service of process may be avoided if all interested persons sign a waiver or consent form, SCAO form PC 561, but a hearing must still take place to determine whether the guardianship would be in the minor’s best interest.

⁶ Note throughout all proceedings that different rules apply to any child who may be an American Indian. For more information, see Chapter 24 of the ICLE publication, *Michigan Family Law*.

⁷ For SCAO forms, see <http://courts.mi.gov/administration/scao/forms/pages/default.aspx>.

- Personal service must be made 7 days before the hearing, but service by publication must be made at least fourteen days before the hearing. MCR 5.108.

General court procedures:

- The court may appoint a lawyer-guardian ad litem if it perceives that the minor's interests are not adequately represented. MCL 700.5213(4).
- The rules of evidence do not apply to a guardianship hearing. MCR 5.404(D)(1).
- A jury trial is not available for minor guardianship proceedings.
- Interested persons shall be afforded an opportunity to review and contest written reports, and, in the court's discretion, may be allowed to cross-examine individuals making reports. MCR 5.404(D)(2).
- The court shall appoint the Department of Human Services or any other person to conduct an investigation of the guardianship of a minor. The investigator shall file a written report with the court within 28 days of such appointment. MCR 5.404(E)(2).
- After informal review of the report, the court shall enter an order continuing the guardianship or set a date for a hearing to be held within 28 days. MCR 5.404(E)(3).

Motion for special SIJS findings:

The petitioner should file a motion requesting that the court make the special findings necessary for SIJS.

- Unless made orally during the guardianship hearing, the motion must (a) be in writing, (b) state with particularity the grounds and authority on which it is based, (c) state the relief or order sought, and (d) be signed by the party or attorney. MCR 2.119.
- The motion should be accompanied by a brief citing legal authority. Examples of motions and briefs are available through the MSU College of Law Immigration Law Clinic.

B. Custody disputes and paternity actions

The family division of the circuit court hears cases on domestic relations, including custody and parenting-time matters and paternity actions. MCL 600.102(1)(h), 722.714(1). Generally, the term "domestic relations" encompasses divorce, marriage, family support, custody, and paternity actions. *See* MCR 3.200.

Procedure for filing:

- Pursuant to MCR 3.206, the action begins with a complaint filed by a plaintiff. The complaintⁱⁱ must state the allegations, the residence information, names of all parties, and birth dates of minors involved in the action. In a case in which the custody of a minor is to be determined, the complaint must state whether any other proceedings that would affect the instant matter has occurred or is ongoing, as set forth in detail at MCL 722.1209(1).
- On the filing of a complaint, the court clerk will issue a summons to be served. MCR 2.102(A). So a summons needs to be included in a custody action, preferably using SCAO form MC 01. The summons and complaint must be served to opposing party's last known mailing address. MCR 3.203, 2.105.
- The plaintiff must attach a verified statementⁱⁱⁱ stating the contact information, social security number, occupation, and income of each party. MCR 3.206(B). The information in the verified statement is confidential. If any of the required information is omitted, the party seeking relief must explain the omission in a sworn affidavit. See MCR 3.206(B)(3).
- Filing fees may be waived for applicants who are indigent, or receiving public assistance. MCR 2.002. To waive the filing fees, applicants should submit the SCAO form MC 20.⁸ The court may also bear the cost of official service of process or service by publication if the payment of fees is otherwise suspended. MCR 2.002(F).

General court procedures:

- A trial court may not change custody without first holding a hearing. *See, e.g. Schlender v Schlender*, 235 Mich App 230, 233 (1996).
- A court may modify its previous judgments or orders “for proper cause shown or because of a change of circumstances” until the child reaches 18. MCL 722.27(1)(c).
- If the court thinks it is necessary, the court may appoint a guardian ad litem to represent the child and assess the costs and reasonable fees against the parties involved in full or in part. MCR 3.204(D).

⁸ At any time, a party may also request that the court order the other party to pay all or part of the attorney fees and expenses related to the action or a specific proceeding. *See* MCR 3.206(C)(1). A party who requests attorney fees and expenses needs to show that the party is unable to bear the expense and that the other party is able to pay, or the attorney fees and expenses were incurred because the other party refused to comply with a previous court order. *See* MCR 3.206(C)(2). For further information on filing custody actions in Michigan, please refer the Michigan Custody Guideline, <<http://courts.mi.gov/Administration/SCAO/Resources/Documents/Publications/Manuals/focb/custodyguideline.pdf> > (accessed April 12, 2014).

Motion for special SIJS findings:

The petitioner should file a motion requesting that the court make the special findings necessary for SIJS.

- Unless made orally during the custody or paternity hearing, the motion must (a) be in writing, (b) state with particularity the grounds and authority on which it is based, (c) state the relief or order sought, and (d) be signed by the party or attorney. MCR 2.119.
- The motion should be accompanied by a brief citing legal authority. Examples of motions and briefs are available through the MSU College of Law Immigration Law Clinic.

C. Child protective proceedings

Anyone who has information that a child needs the court's protection has standing to initiate a proceeding. MCL 712A.11(1). If the court determines that jurisdiction should be acquired, the court will authorize a petition to be filed by a "prosecuting attorney." *Id.* Because the interest of a parent and child in the preservation of their relationship is substantial, even juxtaposed against the state's urgent interest in child welfare, the court will carefully scrutinize each procedure to guard against erroneous deprivation. *See Lassiter v Dept of Soc Servs*, 452 US 18, 26 (1981). See the flowchart of a child protective proceeding, available at http://www.michigan.gov/documents/MCWLflowchart_34807_7.pdf for more details.

Procedure for filing:

- The petition should be filed using SCAO form JC 04b. An immigration attorney's primary objective is to carefully review the petition to ensure it is accurate and contains all of the necessary information, but leaves out unnecessary information that could trigger inadmissibility.
- The agency acting as the "prosecuting attorney" for the petition must ensure that the petition gives sufficient evidence to bring the child within the court's jurisdiction under MCL 712A.2(b). That section's primary provisions include:
 - Abuse;
 - Neglect;
 - Emotional maltreatment; and
 - Educational neglect.
- Whenever possible, it is best to allege abuse, neglect, or abandonment by both the mother and the father. Although the court may take jurisdiction of a child through one parent's adjudication, an unadjudicated parent is presumptively fit and cannot, consistent with due process, be part of a dispositional order. *In re*

Sanders, 495 Mich 394 (2014). In practice, this means that a parent not deemed a respondent by the court can be a party to the proceedings, but no action can be taken to curtail his or her rights. *See id.* Where curtailment of a particular parent's rights is not practical or desirable (i.e., when that parent is in another country) the two-parent requirement should not make any difference.

Nonetheless, judges have demonstrated more willingness to take jurisdiction over a child where there are two "bad actors" or at least neglectful, even without regard to intent.

- Importantly, the petitioner need not show that a parent's neglect of a child is culpable. *In re Jacobs*, 433 Mich 24 (1989) (holding that court's jurisdiction was proper even though neglect resulted from a mother's physical incapacity after a car accident).
- The petition generally would not seek a termination of parental rights at the initial disposition, unless aggravated circumstances are present.
- To obtain personal jurisdiction, a summons must be served on a "respondent," which could be the parent, guardian, legal custodian, or nonparent adult who allegedly committed the actions that gave rise to the petition. MCR 3.903(C)(10).
- Statutory notice provisions are jurisdictional in child protective services proceedings. The statute requires that "(1) personal service is effected at least 72 hours before the date of hearing; (2) registered mail is mailed at least 5 days before the date of hearing if within the state or 14 days if outside of the state; (3) publication is made once in some newspaper printed and circulated in the county in which said court is located at least 1 week before the time fixed in the summons or notice for the hearing." MCL 712A.13.
- Court rule notice requirements are not jurisdictional, but they require that notice be given immediately when a preliminary hearing is scheduled and at least fourteen days before a permanency planning hearing or hearing on the termination of parental rights. MCR 3.920(D).
- The right to notice and summonses may be waived in writing, provided that certain requirements are met. MCR 3.920(F), (B).

General court procedures:

- If the petition is supported by the preponderance of the evidence, the court will assert temporary jurisdiction over the child at an initial dispositional hearing. Otherwise, the court must dismiss the petition. MCL 712A.18.
- The court will not assert ongoing jurisdiction until a more detailed adjudication on the petition can be held. *See id.*

- A parent has a due process right to receive notice of a child protective proceeding. *Kelly et al.*, § 23.5, p 23-8. However, there is no right to confront adverse witnesses in a child protection proceeding. *See In re Brock*, 442 Mich 101, 108 (1993).
- The child is entitled to full and active participation through his or her lawyer–guardian ad litem. MCL 712A.17d.
- Generally, a parent is entitled to a hearing regarding his or her fitness before a state may remove the child from parental custody. *Kelly et al.*, § 23.5, p 23-8.
- Upon request, parent(s) or respondent(s) will be appointed an attorney at public expense. *Id.* (citing, e.g., *Dept of Human Servs v Williams*, 286 Mich App 253, 275 (2009)).
- If termination of parental rights is sought, then the facts must be proven by clear and convincing evidence. *Id.* at § 23.8, p. 23-10.

Seeking special SIJS findings:

The petitioner may include a request in the petition that the court make the requisite findings for SIJS. This may be done under number 6 on the SCAO form, JC 04b, under a subheading titled “recommendations.” Alternatively, during the adjudication hearing, the attorney–guardian ad litem should make an oral motion requesting that the court make the special findings necessary for SIJS.

- Unless made orally during the custody or adjudication hearing on the petition, the motion must (a) be in writing, (b) state with particularity the grounds and authority on which it is based, (c) state the relief or order sought, and (d) be signed by the party or attorney. MCR 2.119.
- Unless the court is highly familiar with the SIJS findings through personal experience with the petitioner or attorney–guardian ad litem, the motion should be accompanied by a brief citing legal authority. Examples of motions and briefs are available through the MSU College of Law Immigration Law Clinic.

D. Adoption

Adoptions generally fall under the jurisdiction of the family division of the circuit court. MCL 600.1021(1)(b). The adoptive parent must file a petition for adoption with the court. MCL 710.24(1). To the extent that termination of parental rights is required, please refer to the applicable child protection proceedings rules.

Procedure for filing:

- The adoption petition, SCAO form PCA 301, needs to be verified by each petitioner and contain the following information:
 - Each petitioner's name, date, and place of birth, and residence;
 - The adoptee's name, date, and place of birth, and residence;
 - The petitioner and adoptee's relationship;
 - The adoptee's full name after the adoption;
 - The adoptee's property description (if applicable);
 - The biological parents' names and addresses; and
 - The guardian's name and address (if applicable). *See MCL 710.24.*
- Every interested party to an adoption must be served. *See MCR 2.107(A)(1).*
- At the time the adoption petition is filed, or after the petition is filed but before the petition hearing is held, the following documents must be filed:
 - A copy of each release or parental termination order;
 - A copy of the commitment order, if the child was committed to a child placing agency;
 - Proof of a guardian's appointment and authorization to execute a release;
 - 4) a copy of the consent to the adoption;
 - A copy of the adoptee's birth certificate, or other satisfactory proof;
 - Any investigative reports regarding the parties;
 - An affidavit verifying any allegations on the petition; and
 - Any additional facts the court may consider necessary. *See MCL 710.26.*
- Filing fees may be waived for applicants who are indigent, or receiving public assistance. MCR 2.002. To waive the filing fees, applicants should submit the SCAO form MC 20.

General court procedures:

No formal hearing is required prior to the court granting the adoption. *See MCL 710.56(1).* If an adoption hearing is held, the court may permit an adoptee to attend. *MCL 710.23a(5).*

Motion for special SIJS findings:

Please note that adoption may not be the preferred action for obtaining a predicate order. Even if a court issues an order containing the special findings during the course of an adoption, the Code of Federal Regulations requires that the juvenile court's jurisdiction continue for that order to serve as the basis of an SIJ petition. Accordingly, practitioners should ensure that the court has not divested itself of jurisdiction upon entering an order of adoption before using an

order to seek SIJS. In practice, a guardianship prior to adoption may be more strategically sound. If seeking a predicate order via adoption, the petitioner should file a motion requesting that the court make the special findings necessary for SIJS.

- Unless made orally during an adoption hearing, the motion must (a) be in writing, (b) state with particularity the grounds and authority on which it is based, (c) state the relief or order sought, and (d) be signed by the party or attorney. MCR 2.119.
- The motion should be accompanied by a brief citing legal authority. Examples of motions and briefs are available through the MSU College of Law Immigration Law Clinic.

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- ⁱ **MCL 722.23** defines the *best interests of the child* to mean the sum total of the following factors to be considered, evaluated, and determined by the court:
- (a) The love, affection, and other emotional ties existing between the parties involved and the child.
 - (b) The capacity and disposition of the parties involved to give the child love, affection, and guidance and to continue the education and raising of the child in his or her religion or creed, if any.
 - (c) The capacity and disposition of the parties involved to provide the child with food, clothing, medical care or other remedial care recognized and permitted under the laws of this state in place of medical care, and other material needs.
 - (d) The length of time the child has lived in a stable, satisfactory environment, and the desirability of maintaining continuity.
 - (e) The permanence, as a family unit, of the existing or proposed custodial home or homes.
 - (f) The moral fitness of the parties involved.
 - (g) The mental and physical health of the parties involved.
 - (h) The home, school, and community record of the child.
 - (i) The reasonable preference of the child, if the court considers the child to be of sufficient age to express preference.
 - (j) The willingness and ability of each of the parties to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent or the child and the parents.
 - (k) Domestic violence, regardless of whether the violence was directed against or witnessed by the child.

(1) Any other factor considered by the court to be relevant to a particular child custody dispute.

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MCR 3.206(A) Information in Complaint

- 1) Except for matters considered confidential by statute or court rule, the complaint must state:
 - (a) the allegations required by applicable statutes;
 - (b) the residence information required by statute;
 - (c) the complete names of all parties; and
 - (d) the complete names and dates of birth of any minors involved in the action, including all minor children of the parties and all minor children born during the marriage.
- 2) The complaint must state whether any Michigan court has prior continuing jurisdiction of the minor. If so, the complaint must specify the court and the file number.
- 3) In a case in which *the custody of a minor* is to be determined, the complaint or an affidavit attached to the complaint also must state the information required by MCL 722.1209.
- 4) The caption of the complaint must also contain either (a) or (b) as a statement of the attorney for the plaintiff or petitioner, or of a plaintiff or petitioner appearing without an attorney:
 - (a) There is no other pending or resolved action within the jurisdiction of the family division of the circuit court involving the family or family members of the person[s] who [is/are] the subject of the complaint or petition.
 - (b) An action within the jurisdiction of the family division of the circuit court involving the family or family members of the person[s] who [is/are] the subject of the complaint or petition has been previously filed in [this court]/[_____ Court], where it was given docket number _____ and was assigned to Judge _____. The action [remains]/[is no longer] pending.

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MCR 3.206 (B) Verified Statement

- 1) The party seeking relief must attach a verified statement to the copies of the papers served on the other party and provided to the friend of the court, stating
 - (a) the last known telephone number, post office address, residence address, and business address of each party;
 - (b) the social security number and occupation of each party;
 - (c) the name and address of each party's employer;
 - (d) the estimated weekly gross income of each party;
 - (e) the driver's license number and physical description of each party, including eye color, hair color, height, weight, race, gender, and identifying marks;
 - (f) any other names by which the parties are or have been known;
 - (g) the name, age, birth date, social security number, and residence address of each minor involved in the action, as well as of any other minor child of either party;

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- (h) the name and address of any person, other than the parties, who may have custody of a minor during the pendency of the action;
 - (i) the kind of public assistance, if any, that has been applied for or is being received by either party or on behalf of a minor, and the AFDC and recipient identification numbers; if public assistance has not been requested or received, that fact must be stated; and
 - (j) the health care coverage, if any, that is available for each minor child; the name of the policyholder; the name of the insurance company, health care organization, or health maintenance organization; and the policy, certificate, or contract number.