

# Michigan Judicial Institute Family Division Referee Webinar: Juvenile Division

January 26, 2022

## **Statutory, Court Rule, and Caselaw Update**

### Materials presented by:

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# Family Division Referees Webinar



## SCAO Juvenile Update

Wednesday, January 26, 2022  
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## JUVENILE JUSTICE REFORM TASKFORCE UPDATE

- Established In 2021
- Council of State Governments (CSG) Justice Center
- Monthly meetings occurring since September 2021
  - Have been focused on education
    - Charge of the Task Force
    - Funding
    - Data
- Data is being collected and analyzed by CSG



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## JUVENILE JUSTICE REFORM TASKFORCE UPDATE

- Smaller working groups are also being formed
- Focus Groups have been formed
- Listening sessions with youth and families are being scheduled
- Report with recommendations is scheduled to be completed by July



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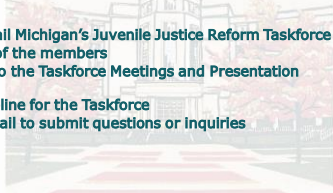
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## JUVENILE JUSTICE REFORM TASKFORCE UPDATE

- > [Michigan Committee on Juvenile Justice website](#)
- > Explains in detail Michigan's Juvenile Justice Reform Taskforce
- > Provides a list of the members
- > Provides links to the Taskforce Meetings and Presentation Materials
- > Provides a timeline for the Taskforce
- > Provides an email to submit questions or inquiries



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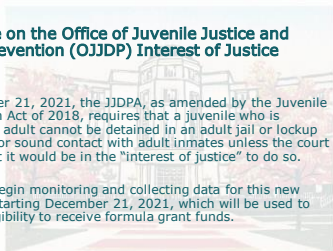
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## NEW: Guidance on the Office of Juvenile Justice and Delinquency Prevention (OJJDP) Interest of Justice Requirement

- > As of December 21, 2021, the JJDPA, as amended by the Juvenile Justice Reform Act of 2018, requires that a juvenile who is charged as an adult cannot be detained in an adult jail or lockup or have sight or sound contact with adult inmates unless the court has found that it would be in the "interest of justice" to do so.
- > States must begin monitoring and collecting data for this new requirement starting December 21, 2021, which will be used to determine eligibility to receive formula grant funds.



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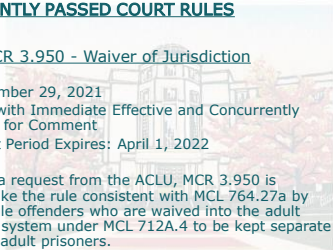
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## RECENTLY PASSED COURT RULES

### Amendment of MCR 3.950 - Waiver of Jurisdiction

- > Effective: December 29, 2021
  - > Adopted with Immediate Effective and Concurrently Published for Comment
  - > Comment Period Expires: April 1, 2022
- > In response to a request from the ACLU, MCR 3.950 is amended to make the rule consistent with MCL 764.27a by requiring juvenile offenders who are waived into the adult criminal justice system under MCL 712A.4 to be kept separate and apart from adult prisoners.



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## RECENTLY PASSED COURT RULES

### Amendment of MCR 1.109

- Effective: April 1, 2022 and Concurrently Published for Comment
- Comment Period Expires: April 1, 2022
- The amendment of MCR 1.109 establishes a process for individuals to be authorized to have access to a party's date of birth for purposes of verification of identity with that party's consent.



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## ADOPTED ADMINISTRATIVE ORDER

### Administrative Order No. 2021-6 - Mandatory Submission of Case Data to the Judicial Data Warehouse

- Effective: January 1, 2022
- This administrative order makes it mandatory for all courts to submit case information to the Judicial Data Warehouse in a uniform manner as required by SCAO.



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## RECENTLY ENACTED LEGISLATION

### PA 118 of 2021 - Modify Jurisdiction Over Juveniles (RTA)

- Statute Cite: MCL 712A.3 & MCL 712A.5
- Effective Date: December 1, 2021
- Amends MCL 712A.3:
  - Specifies that a provision requiring a criminal case to be transferred to family court if the individual was under the age of 18 at the time the offense was committed applies only to an offense committed on or after October 1, 2021
  - For an offense occurring before October 1, 2021, requires a criminal case to be transferred to the family court if the individual were under the age of 17 when the offense was committed.
- Amends 712A.5:
  - Removes the term "juvenile", which is a defined term referring to a person under the age of 18 who is the subject of a delinquency petition, and replaces it with "individual".
  - Modifies the age of jurisdiction to 19 years of age instead of 18 years of age.



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### PROPOSED LEGISLATION/LEGISLATION WITH RECENT MOVEMENT

HB 5681 – Remote Victim Impact Statements (MCL 780.765 et seq.)

HB 5680 – Public Video Recordings of Court Proceedings (MCL 780.758 et seq.)



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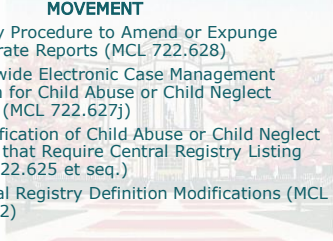
### PROPOSED LEGISLATION/LEGISLATION WITH RECENT MOVEMENT

HB 5274 – Modify Procedure to Amend or Expunge Inaccurate Reports (MCL 722.628)

HB 5275 – Statewide Electronic Case Management System for Child Abuse or Child Neglect Claims (MCL 722.627j)

HB 5276 – Identification of Child Abuse or Child Neglect Claims that Require Central Registry Listing (MCL 722.625 et seq.)

HB 5277 – Central Registry Definition Modifications (MCL 722.622)



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### PROPOSED LEGISLATION/LEGISLATION WITH RECENT MOVEMENT

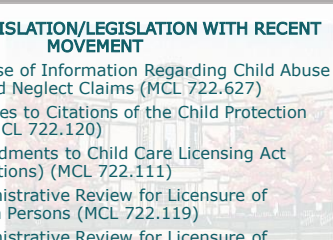
HB 5278 – Release of Information Regarding Child Abuse or Child Neglect Claims (MCL 722.627)

HB 5279 – Updates to Citations of the Child Protection Law (MCL 722.120)

HB 5280 – Amendments to Child Care Licensing Act (Definitions) (MCL 722.111)

HB 5534 – Administrative Review for Licensure of Certain Persons (MCL 722.119)

HB 5594 – Administrative Review for Licensure of Certain Persons (MCL 722.621 – 722.638)



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## PII UPDATE

> Effective: April 1, 2022

>MCR 1.109 (amended on December 6, 2021)

>MCR 8.119 (amended on December 6, 2021)

>Comment period expires on April 1, 2022

>AO 1999-4 – Nonpublic Status / SCAO Standards

>AO 2019-4 – E-Filing Pilot Programs



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## Questions?

Tanya Morrow, Management Analyst

Phone: (517) 373-2451

Email: [morrowt@courts.mi.gov](mailto:morrowt@courts.mi.gov)



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STATE OF MICHIGAN

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
LANSING

GRETCHEN WHITMER  
GOVERNOR

ELIZABETH HERTEL  
DIRECTOR

December 17, 2021

**RE: Guidance on the Office of Juvenile Justice and Delinquency Prevention (OJJDP)  
Interest of Justice Requirement, Effective 12/21/21**

To Whom It May Concern,

As you may be aware, the federal [Juvenile Justice and Delinquency Prevention Act \(JJDP\)](#) establishes core requirements intended to protect juveniles who come in contact with the justice system. It is the policy of the State of Michigan to comply with requirements of the Act. The Michigan Department of Health and Human Services (MDHHS) is the designated agency responsible for ensuring compliance with the JJDP. The Michigan Public Health Institute (MPHI), with the assistance of Public Policy Associates, Incorporated (PPA), is under contract to assist in these efforts.

**Effective 12/21/21, OJJDP is requiring all states to comply with the new Interest of Justice Requirement to remain compliant with the JJDP**

Beginning December 21, 2021, the JJDP, as amended by the Juvenile Justice Reform Act of 2018, requires that a juvenile who is charged as an adult cannot be detained in an adult jail or lockup or have sight or sound contact with adult inmates unless the court has found that it would be in the “interest of justice” to do so. States must begin monitoring and collecting data for this new requirement starting December 21, 2021, which will be used to determine eligibility to receive formula grant funds.

Under the JJDP, as amended, a court must determine, after a hearing and in writing, whether it is in the interest of justice to permit a juvenile charged as an adult to be detained in a jail or lockup for adults or have sight or sound contact with adult inmates while awaiting trial. Once that determination is made, the court must hold a hearing at least every 30 days to review whether it is still in the interest of justice to continue to detain the juvenile in an adult jail or lockup.

**JJDAP as Amended: Section 223(a)(11)(B) [34 U.S.C. 11133(a)(11)(B)] (p. 49)**

(i) not later than 3 years after the date of enactment of the Juvenile Justice Reform Act of 2018, unless a court finds, after a hearing and in writing, that it is in the interest of justice, juveniles awaiting trial or other legal process who are treated as adults for purposes of prosecution in criminal court and housed in a secure facility—

(I) shall not have sight or sound contact with adult inmates; and

(II) except as provided in paragraph (13), may not be held in any jail or lockup for adults

(ii) in determining under clause (i) whether it is in the interest of justice to permit a juvenile to be held in any jail or lockup for adults, or have sight or sound contact with adult inmates, a court shall consider—

- (I) the age of the juvenile;
- (II) the physical and mental maturity of the juvenile;
- (III) the present mental state of the juvenile, including whether the juvenile presents an imminent risk of harm to the juvenile;
- (IV) the nature and circumstances of the alleged offense;
- (V) the juvenile’s history of prior delinquent acts;
- (VI) the relative ability of the available adult and juvenile detention facilities to not only meet the specific needs of the juvenile but also to protect the safety of the public as well as other detained youth; and
- (VII) any other relevant factor; and

(iii) if a court determines under clause (i) that it is in the interest of justice to permit a juvenile to be held in any jail or lockup for adults—

- (I) the court shall hold a hearing not less frequently than once every 30 days, or in the case of a rural jurisdiction, not less frequently than once every 45 days, to review whether it is still in the interest of justice to permit the juvenile to be so held or have such sight or sound contact; and
- (II) the juvenile shall not be held in any jail or lockup for adults, or permitted to have sight or sound contact with adult inmates, for more than 180 days, unless the court, in writing, determines there is good cause for an extension or the juvenile expressly waives this limitation...”

If you have questions about this guidance or general questions about JJDP requirements, please contact Robb Burroughs of PPA at (517) 485-4477 or [rburroughs@publicpolicy.com](mailto:rburroughs@publicpolicy.com). With your support, we will continue to receive funding for juvenile justice and delinquency prevention programs in Michigan.

We appreciate your past cooperation and thank you for your continuing assistance in this important effort.

Sincerely,



Melinda Fandel  
Coordinator, Michigan Committee on Juvenile Justice

Attachment



## How To Tell When the Interest of Justice Requirement is Satisfied

