INDEX

Michigan Child Welfare Law, 2005

```
Abrogation of privileged communication,
     court ordered examinations
     criminal prosecutions 263
     reporting 13, 255
     substance abuse programs, federal 260
     testimonial privilege 261
Adults, jurisdiction over
     at preliminary hearing, see protective orders 116
     at disposition 154
     nonparent adult 55
Appeals 204
     advice of rights after termination 200
     collateral attack 209
     rehearing 206
     review of referee 204
     to court of appeals 207
             by leave 207
             by right 207
             on the record 208
             review standard, clearly erroneous 208
             time limits 208
      use of minor's initial in published opinions 209
Attorney Also see lawyer-guardian ad litem
     attorney grievance commission 302
     for child 294
     for petitioner 301
     for respondent/parents 299
Best interests of the child
     philosophy and purpose of juvenile court, 49
     best interests step in termination 184
Case plans
     initial services plan after prelim 120
     required within 30 days of placement 149
     at disposition 149
     court may order 150
     at review hearing 159
Central Registry System 14
     amending and expunging files 18
     confidentiality of 15, 17
     local files 19
     perpetrator notification 18
Child Abuse
     defined for reporting 5
     defined for Family Court jurisdiction 53
     reporting obligation 8
```

sexual abuse defined 5 Child Care Centers, alleged maltreatment in, 23 Child Neglect defined for reporting 6 defined for Family Court jurisdiction 51 Child, presence at hearing 141 Child witness protections 131, 289 admit statements of child under 10 133, 287 impartial questioner 132, 288 close proceedings to public 132 Collateral estoppel 142 Collateral attack 209 Confidentiality 253 abrogated for reporting 13, 255 scope of abrogation for reporting 255 access to confidential records by DHS 257 case consultants 265 community mental health records 259 circle of confidence, widening 265 client access to case records 268 court-ordered evaluations 266 check-list for expert 267 defined 254 drug treatment records 260 DHS duties 264 Friend of the Court records 261 law enforcement cooperation 263 law enforcement information network 263 legislative committees, access 17, 264 liability for unauthorized disclosures 11, 304 marriage counselor-client 254 (fn 1) medical records, access 257 mental health records, access 258 privileged communication, defined 253 broad abrogation in child protection 255, 262 public health records, access 257 school records 260 testimonial privilege abrogated 261 broad scope of abrogation 262 psychiatrist-patient 254 (fn. 1) psychologist-patient 254 (fn. 1) release of information 264 social worker-client 254 (fn. 1) substance abuse programs, federal 260 teacher-student 254 (fn. 1) waiver of privilege, voluntary 268

```
Constitutional rights at stake 306
     liability for violations of 307
     rights of children in foster care, established right 306
Counsel, see Attorney and Lawyer-guardian ad litem
Court-ordered evaluations 266
     before adjudication 40, 130
     after adjudication 130, 154
     advice to evaluator 266
     checklist for expert 267
     not privileged 266
     immunity extended for 266
Criminal child abuse 28
Criminal prosecution, child protection may proceed independently 143
Deposition of child in lieu of live testimony, In re Brock, 288
Discovery 129
     evaluation of parties 47, 154
Disposition 148
     broad grant of juvenile court authority 154
     evidence 152
     orders 152
Drug treatment records 260
Education and Training Obligations of Department 19
Emancipation 241
Emergency placement 76
Emotional Neglect 64
Evidence 272
     authentication 285
     child witness protections 131
             anatomically correct dolls 131
             closed circuit television 131
             close court room 132
             impartial questioner 132
             shielding witness from respondent 132
             support person 132
             videotaped statements 132, 289
     dispositional hearing 150, 289
     expert witnesses 286
     hearsay rule 273
             acts, nonverbal conduct, as hearsay 274
             exceptions under formal rules
                    admission by party opponent 275
                    business records 279
                    deposition of an expert 282
                    excited utterance 276
                    existing mental, emotional or physical condition 276
                    judgement of previous conviction 282
                    present sense impression 275
                    public records and reports 281
                    residual hearsay rule 282
```

```
statements for purposes of medical treatment 277
             exceptions if witness unavailable
                    statement against interest 284
                    statement of personal or family history 284
             exceptions unique to child protection
                    statement of a child under 10 287
      opinion testimony, expert 286
     opinion testimony, lay 286
     permanency planning hearing 164
     photographs 285
     preliminary hearing 112, 287
     relevancy 272
     review hearing 161, 289
     siblings, treatment of 287
     statement of a child under 10 287
     termination of parental rights 185, 290
     trial 138, 290
     written documents, authentication 285
Expunging central registry 18
Family and juvenile court
     open to public 269
     philosophy and purpose 49
Department of Human Services
     central registry 14
      confidentiality, duty of 264
     duty to investigate suspected child abuse and neglect 23
      education and training obligations 19
      foster care workers' duty to report to PS 8
     protective services intake process 34
     receiving reports of suspected child abuse and neglect 9
Foster care review board 172
      appeals, by foster parents 87
Foster parents
     appeal to foster care review board 87
     "foster care" defined 81
     notice of hearing to foster parents required
             permanency planning hearings 164
             review hearings 159
             termination of parental rights 180
     rights if child to be removed 87
     standing of foster parents 119
             petitioner as "concerned persons" 96, 180
             no standing prior to termination 179
Friend of the court records 261
Guardian ad litem
     CASA, court appointed special advocate 299
     nonlawyer GAL 298
```

```
lawyer-GAL, see lawyer-guardian ad litem
Guardianship 229
     basis for temporary wardship 53, 240
     basis for termination of parental rights 189
     disposition in protection proceedings 150, 240
     general guardianship 231
     limited guardianship 232
     power of attorney 229
             form 230
     temporary guardianship 234
     termination of 237
Hospital
     emergency placement 46, 79
     reporting 10
Immunity
     for good faith compliance with reporting law 12
     from federal claims 308
     governmental employee 310
     private agencies 311
     guardian ad litem 297
     for court ordered evaluation or treatment 266
Indian Children 212
Indian Child Welfare Act 212
     emergency removal 214
     notification of tribal authorities 214
     placement of indian child 215
     termination of parental rights, standards 216
Investigation 23
     contacting the child 35
     courts to assist 45
     entering the home 42
     medical exam of child 38, 40
     notifying parents of PS investigation 38
     photographs 44
     physical evidence 43
Judge
     disqualification 138
     one family, one judge 70
     right to on formal calendar 138
     right to in termination of parental rights 184
Judicial Tenure Commission 303
Jury 139
     no right in termination 184
Jurisdiction, 51
     conflict of jurisdiction 70
     of family court in protection cases 53
```

```
legal grounds for jurisdiction See Standards,
      meanings of "jurisdiction" in juvenile code 54
      medical treatment 67
      more than one court involved 70
      nonparent adult 55
       one family, one judge 70
       orders relating to jurisdiction 69
       over unborn child 65
       subject matter jurisdiction 209
      transfer of. 71
 Law Enforcement
       coordination with protective services 24
      DHS sharing information with 264
      law enforcement information network 261
 Lawyer-guardian ad litem 294
       appointment of child's attorney concurrently 296
       conflict between child's and lawyer's view
              of child's interests
                                                   296
       duties 294
       immunity 297
 Liability 307
      confidentiality breach 307
       federal civil rights claims 308
       privacy violations 306
      state law claims 12, 310
      Also see Immunity
Mandatory petitions 92
Medical records
       access to child's 40, 257
      physician's report to DHS 10
      privilege abrogated 13
 Medical exam
       of child in PS investigation 38
 Mediation in child protection cases 219
 Medical treatment of child, orders 67
 Mental health records 258
 Motion Practice 131
 Multidisciplinary services 20
 Negotiation 219
      child's advocate as mediator 223, 296
       options for mutual gain 222
 Notice 125
       disposition 150
       permanency planning hearing 166
      preliminary hearing 112
      review hearing 161
```

```
summons 113, 123
     termination 180
     trial 125
Parenting time 84
     suspended upon filing for termination 182
Parents
     access to case records and files 268
            See also, Discovery
     constitutional rights at stake 306
     notifying of investigation 38
     privacy rights 306
Parties 119
     in termination 179
Perpetrator notification 18
Permanency Planning Hearing 164
     evidence 167
     notice 166
     priorities 166
     purpose 164
     time limits 165
Petition 92
     amended 97
     legal assistance in drafting 96
     legal requirements 94
     oral, emergency 45
     samples 99-108
     supplemental 98
     techniques of drafting 98
     who may file 96
     who may file termination petition 179
Placement of child
     change of, rights of foster parents 86
     disposition, case plans 151, 153
     emergency placement 46, 76
     pretrial placement 79
     review of, 88, 167-170
     returning child home without a review hearing 164
     court ward at home, change in placement 171
Pleas 134
Power of Attorney 229
     form 230
Preliminary Hearing 112
     evidence 116
     pretrial placement of child 79
     procedure 114
     protective orders 116
```

```
when required 112
Preliminary Inquiry 111
Prenatal neglect 65
Pretrial 123
     pretrial conference 134
Privacy rights 306
      Also see Confidentiality
Privileged communication 253
     Also see Confidentiality
     abrogation of 13, 255
Proper custody and guardianship 63
Protective Orders 116
Protective Services
     contacting the child 35
     intake 34
     investigation 34
Psychologist or psychiatrist as questioner of child in court 132, 288
Public access to family court proceedings 269
     close proceedings 132
Public health records 257
Putative fathers 126
     "father" defined 127
Referee
     preliminary hearing 112
     formal calendar 138
     review of referee recommendations 204
Rehearing 206
Relative placement
     background checks 82
     best interests of child may trump 185
     dispositional alternative 153
     license and home study not required 83
     not evidence of neglect 63
     search for relative placement required 82
Release of Information 268
Reporting requirements 5
     Definition 5
     child abuse 5
     child neglect 6
     DHS informing reporting person 12
     history and purpose 3
     how to report 10
     identity of reporting person confidential 11
     immunity 12, 308
     federal civil rights 308
     mandated reporters 8
```

```
penalties
             for failure to report 8
             for malicious reporting 8
             for disseminating PS information 11
     pregnancy and venereal disease in a child under 12 7
     reasonable cause to suspect 7
     staff member protection 12
     to the family court 10
     to Department of Human Services 9
Review Hearings 159
     post-termination review 172
     time 159
     ward at home 171
     updated services plan 162
School
     duty to cooperate with DHS investigation 36
     duty to report 8
     contacting child at 35
Self-incrimination in child protection 143
Services Plans
     initial 120, 150
     case plans, disposition 150
Standards, formal jurisdiction
     definition of legal neglect is imprecise 57
     for temporary wardship 59
            criminality 61
             emotional neglect 64
             medical care 67
             unfit home 62
            prenatal neglect 65
            proper custody and guardianship 63
     statutory basis 53
     statutory chart neglect jurisdiction 99
     termination of parental rights, see Termination
     value judgement required 59
Standard of proof
     preliminary hearing, probable cause 115
     termination of parental rights, clear and convincing 184
     trial, preponderance 141
Subpoenas 130
Summons 123,
     for termination 180
     manner of service 124
Supplemental orders of disposition 156
Supplemental petitions 98
Termination of Parental Rights 178
```

```
appeal 200, 204
             advice of rights to appeal 200
             clearly erroneous review standard 208
     best interests of the child step 184
     by other than juvenile code 178
     comparison of homes 198
     evidence 187
     foster care required 178
     judge, right to 184
     judicial findings required 199
     jury, no right 184
     jurisdiction of family court 178
     notice 180
     one parent only 198
     parties 179
             concerned person may petition for 179
     petition 180
      "respondent" defined 179
     standard of proof
             clear and convincing proof required 184
             beyond a reasonable doubt for Indian child 184, 216
     time interval between petition and TPR hearing 188
     termination at initial disposition 185
     termination based on new and different circumstances 186
     termination, child remaining in foster care 186
     venue 179
Termination of Parental Rights, grounds 189
     child abuse, serious 197
     conditions of original jurisdiction not rectified 192
     conviction of serious offense 197
     desertion 189
     failure to protect from physical or sexual abuse 191
     failure to provide proper care and custody 194
     guardianship failed 193
     parental imprisonment 195
     physical abuse 191
     sexual abuse 191
     sibling, parental rights to terminated 196
     termination of rights to other children 197
Time limits
     preliminary hearing 24 hours 113
     disposition 30 days 149
     trial 63 days, 140
     permanency planning hearing 364 days 164
     review hearing 91 days 159
     termination of parental rights 42 days 188
```

Transfer of jurisdiction to county of residence 71
Trial 138
 evidence 141, 287
 time limits 140
Vagueness 57
Venue 72
 transfer to county of residence 71
Visitation See Parenting time