

# **MINOR GUARDIANSHIPS (FULL)**

PLEASE READ BEFORE PROCEEDING.

This information is the only information court personnel can give you about this procedure. This information is not intended to be legal advice, but a brief explanation of the basic procedure that is required.

Probate court personnel cannot give legal advice about your particular situation or complete your forms for you. You are not required to have an attorney; however, the court cannot act as your attorney. If you do not understand these instructions or the process, you will need to obtain other assistance.

## **TYPES OF GUARDIANSHIPS**

There are two types of guardianships for minors, Full Guardianship and Limited Guardianship. Only the parent can file a petition for limited guardianship. A petition for full guardianship can be filed by any interested person or by the minor if he/she is 14 years of age or older.

### **FULL GUARDIANSHIP**

For this type of guardianship one of the following situations must have occurred:

- If parental rights of both parents or the surviving parent have been terminated or suspended by the parent's death, disappearance, or confinement in jail or other place of detention.
- If a court has suspended or terminated the parent's rights after finding the parent(s) to be mentally incompetent.
- If the parent(s) have permitted the minor to reside with another person and have not provided the other person with legal authority for the care and maintenance of the minor.

A full guardian has almost the same power and authority as a parent of the minor. A full guardian can make decisions about where the child will live and go to school and what medical procedures are in the child's best interest. The guardian can give consent to the marriage of the minor; and, with the permission of the court, the full guardian can consent to the adoption of the minor.

The court may at any time, for the welfare of the minor, order reasonable visitation and contact of the minor ward by his or her parents.

### **PROBATE COURT INVOLVEMENT**

The Probate Court will be involved in the appointment of a guardian and will investigate all minor guardianships annually where the child is under six years of age, or at any other time the court deems necessary. However, Probate Court staff or guardianship reviewers are not caseworkers. If assistance, family counseling or a caseworker is necessary, you will need to contact other agencies.

## WHAT MUST BE FILED

- Petition for Appointment of Guardian of Minor ([PC 651](#)) the child who needs a guardian must be residing in Eaton County at the time the petition is filed.
- Minor Guardianship Social History ([PC 670](#)) must be completed by the proposed guardian
- \$175.00 filing fee
- A copy of the minor's birth certificate
- Death certificate of either parent (if applicable)
- Acknowledgment of paternity (if applicable)
- Child support/custody order (if applicable)
- Two reference letters on behalf of the proposed guardian must be filed prior to the hearing

## INCARCERATED PARENT

Michigan Court Rule 2.004 imposes certain responsibilities on persons seeking an Order that impacts minor children when a parent is incarcerated with the Michigan Department of Corrections.

To meet your obligations under MCR 2.004, you must complete the following steps BEFORE filing your pleadings:

1. Contact the Michigan Department of Corrections (MDOC) either via web page at [www.state.mi/mdoc/asp/aboutotis2/asp](http://www.state.mi/mdoc/asp/aboutotis2/asp), or by calling them at 517-373-0284 to obtain the incarcerated party's inmate number and facility where located;
2. Complete the Petition for Order Allowing Participation of Incarcerated Party in Court Proceeding (attached) and file it with the court along with your Petition for Guardianship. There is no filing fee to file the Petition for Order Allowing Participation of Incarcerated Party in Court Proceeding as long as it is filed at the same time as the Petition for Guardianship; if it is filed separately there is a \$20.00 filing fee.

The petitioner will not be present at the telephonic proceeding that will take place prior to the hearing date on the Petition for Guardianship.

## AMERICAN INDIAN CHILD

Michigan law requires that the Notice of Guardianship Proceedings Concerning an American Indian Child ([PC 678](#)) and a copy of the Petition for Guardianship be sent by registered mail, return receipt to the parents, tribal chairperson and/or the Bureau of Indian Affairs.

## **SCHEDULING THE HEARING**

After the petition is properly completed, file it with the Probate Court. A hearing will be scheduled. The hearing will take place approximately 3-6 weeks after the petition is filed. The person who signed the petition and/or the proposed guardian will need to be at the hearing to give testimony why the guardianship is necessary.

## **NOTICE OF HEARING**

The notice of hearing tells the interested persons where and when the hearing will take place. The Petition and Notice of Hearing will be served on all interested persons. These people include:

- The minor, if he/she is 14 years of age or older, must be served personally at least 7 days before the hearing.
- Each person who had principal care and custody of the minor during the 63 days before the petition was filed.
- The parents of the minor.
  - If the parent(s) cannot be found you MUST publish notice of the hearing. (see instruction for publication)
  - The biological father of a child born out of wedlock need not be served notice of the proceedings unless paternity has been determined.
- If neither parent is living, notice must be given to the nearest relative of the minor.
- The attorney general, if the minor has no known presumptive heirs.
- The nominated guardian, if someone other than the petitioner.
- Any conservator or guardian ad litem for the minor.
- Any attorney who has filed an appearance.
- A special fiduciary for the minor.
- A person who has filed a Request for Notice
- In special circumstances other persons are also entitled to notice. For example, the Department of Human Services/Child Protective Services must have notice if there has been involvement with this agency; the administrator of Veterans Affairs if the minor is receiving benefits payable by the Veterans Administration; and the Social Security Department if the minor is receiving social security benefits.

## **PUBLICATION**

If the address of an interested party is unknown, the petitioner must file a Declaration of Intent to Give Notice by Publication ([PC 617](#)) and publish (at your expense) a Publication of Notice of Hearing ([PC 563](#)) in an Eaton County approved newspaper.

- The County Journal
- The Charlotte Shopping Guide
- The Delta Waverly Community News
- The Grand Ledge Independent
- The Eaton Rapids Community News
- The Flashes
- The Lansing State Journal

NOTICE MUST BE PUBLISHED AT LEAST 14 DAYS BEFORE THE HEARING. The Petitioner must pay the newspaper for this publication in order for the notice to be published in the paper. The newspaper should send us verification of publication; however, it is your responsibility to make sure we receive the verification of publication.

## **WAIVER/CONSENT**

Although it is not required by the court, an interested person may waive notice of hearing and consent to the petition by filing the Waiver/Consent form ([PC 561](#))

## **AT THE HEARING**

The proposed guardian must sign an Acceptance of Appointment ([PC 571](#)) and submit it to the Probate Court prior to the hearing or at the hearing. The petitioner is required to appear at the hearing. If the Petition is granted, the court will then issue an Order and Letters of Guardianship.

## **CERTIFIED COPIES**

Certified copies of the Letters of Authority may be obtained after the hearing at \$1.00 per page plus a \$10.00 certification fee.

File/Mail to: EATON COUNTY PROBATE COURT  
1045 INDEPENDENCE BLVD  
CHARLOTTE, MI 48813

## **RESPONSIBILITIES AND AUTHORITY OF THE GUARDIAN:**

As either a full or limited guardian you must file a report of guardian every year for each minor under guardianship in your care.

- An Annual Report of Guardian on Condition of a minor ([PC 654](#))

If you move while the guardianship is in effect, you must inform the court of your new address. You must get the Court's approval before moving out of state. THE MINOR MUST RESIDE WITH THE GUARDIAN UNTIL FURTHER ORDER OF THE COURT.

If there are any questions about what a guardian should or should not do concerning his/her ward, the guardian should consult his/her own attorney.

FAILURE TO FILE THE ANNUAL REPORT OF GUARDIAN CAN RESULT IN THE SUSPENSION OF THE GUARDIAN'S AUTHORITY.

## **TEMPORARY (EMERGENCY) GUARDIANSHIP**

If there is an emergency and the minor needs immediate medical care, an emergency hearing can be scheduled pending the hearing for the regular appointment.

State of Michigan 56 <sup>th</sup> Circuit Court Eaton County Probate Court	<b>PETITION FOR ORDER ALLOWING PARTICIPATION OF INCARCERATED PARTY IN COURT PROCEEDING</b>	Case No.:
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**Court Address:**  
1045 Independence Blvd.  
Charlotte, MI 48813

**Court Telephone Number:**  
1.517.543.7500

Plaintiff/Petitioner	V	Defendant(s)/Respondent(s)/Minor(s)
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<input type="checkbox"/> Probate <input type="checkbox"/> Juvenile	In the Matter of _____
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Plaintiff/Petitioner's Attorney, bar no., address, and phone	Defendant/Respondent's Attorney, bar no., address, and phone
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**NOW COMES** Plaintiff/Petitioner in the above captioned matter, and informs this Court that one of the parties in this matter is incarcerated under the jurisdiction of the Michigan Department of Corrections.

Incarcerated Party Name: \_\_\_\_\_

Inmate Number: \_\_\_\_\_

Prison Name & Address: \_\_\_\_\_

\_\_\_\_\_

Prison Phone: \_\_\_\_\_

Pursuant to MCR 2.004, a telephonic conference is required in this case; I request that this Court issue an Order in compliance with this Court Rule.

Date: \_\_\_\_\_

Attorney: \_\_\_\_\_

\_\_\_\_\_  
Signature of Moving Party

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, and Zip Code

\_\_\_\_\_  
City, State, and Zip Code

(\_\_\_\_)\_\_\_\_\_  
Telephone Number

(\_\_\_\_)\_\_\_\_\_  
Telephone Number