

MACOMB COUNTY PROBATE COURT

MINOR GUARDIANSHIPS

REQUIRED FORMS FOR FILING

Full Guardianship of a Minor

- PC 561 Petition for Appointment of Guardian of Minor
- PC 562 Notice of Hearing
- PC 670 Minor Guardianship Social History
- PC 653 Order Regarding Appointment of Guardian/Limited Guardian of a Minor
- PC 571 Acceptance of Appointment
- PC 1071 Fiduciary Proof of Identity
MCPC Minor Guardianship Clearance Request
- PC 564 Proof of Service
Minor's Birth Certificate

Limited Guardianship of a Minor

- PC 561 Petition for Appointment of Limited Guardian of Minor
- PC 562 Notice of Hearing
- PC 670 Minor Guardianship Social History
- PC 653 Order Regarding Appointment of Guardian/Limited Guardian of a Minor
- PC 571 Acceptance of Appointment
- PC 1071 Fiduciary Proof of Identity
MCPC Minor Guardianship Clearance Request
- PC 564 Proof of Service
Minor's Birth Certificate
Proof that parent filing the petition is the custodial parent (e.g. custody order, etc.)

Indian Child – If the minor is an Indian child within the meaning of MCL 712b(6) and MCR 5.402(4):

Limited Guardianship of an Indian Child

- PC 650-I Petition for Appointment of Limited Guardian of Minor Indian Child
- Pc 652 Limited Guardianship Placement Plan
- PC 562 Notice of Hearing
- PC 678 Notice of Guardianship Proceedings Concerning an Indian Child
- PC 653-I Order Regarding Appointment of Guardian of a Minor Indian Child
- PC 686 Consent by Parent/Indian Custodian to guardianship of Indian Child
- PC 670 Minor Guardianship Social History
- PC 571 Acceptance of Appointment
- PC 564 Proof of Service (petitioner must serve Chairperson of the Tribe,
and all other interested persons.
Minor Guardianship Clearance Request
Fiduciary Proof of Identity

Minor's Birth Certificate
Copy of Membership Card with ID number (to be kept in confidential file)
Name and Address of Tribe and Tribal Chairperson

Full Guardianship of an Indian Child (Involuntary)

PC 651-IB Petition for Appointment of Guardian of Minor Indian Child (Involuntary)
PC 562 Notice of Hearing
PC 678 Notice of Guardianship Proceedings Concerning an Indian Child
PC 653-I Order Regarding Appointment of Guardian of a Minor Indian Child
PC 670 Minor Guardianship Social History
PC 571 Acceptance of Appointment
PC 564 Proof of Service
Minor Guardianship Clearance Request
Fiduciary Proof of Identity
Minor's Birth Certificate
Copy of Membership Card with ID number (to be kept in confidential file)
Name and Address of Tribe and Tribal Chairperson

Modification of a Minor Guardianship

PC 378 Petition to Terminate/Modify Guardianship
PC 562 Notice of Hearing
PC 561 Waiver and Consent (if applicable)
PC 564 Proof of Service
PC 638a Order Regarding Termination/Modification of Guardian for Minor
Macomb County Probate Court Minor Guardianship Clearance Request

1. All the above forms must be completed prior to filing.
2. Proposed Guardian should fill out and sign
 - a. Acceptance of Appointment PC 571
 - b. Minor Guardianship Clearance Request
 - c. Fiduciary Proof of Identity. *Note:* The personal reference on this form may not be living in the proposed guardian's residence.
 - d. In a limited guardianship, the proposed guardian must also sign the Placement Plan.

FILING FOR GUARDIANSHIP OF A MINOR

1. Who may petition.
 - a. Full Guardianship MCL 700.5201(1).
 - i. Any person interested in the welfare of the minor.
 - ii. The minor, if age 14 or older
 - b. Limited Guardianship MCL 700.5205(1). The parent(s) with legal physical custody of the minor.

2. Venue. MCL 700.5211. Petition is to be filed in the Probate Court where either:
 - a. The minor resides, or
 - b. The minor is present.

3. Specific Circumstances for Full Guardianship. MCL 700.5204(2).
 - a. Parental rights of both parents or of the surviving parent have been terminated or suspended by a prior court order, judgment of divorce or separate maintenance, death, judicial determination of mental incompetency, disappearance or confinement in a place of detention.
 - b. 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.
 - 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.

4. Interested Persons. MCR 5.125(19).
 - a. The minor, if 14 years of age or older.
 - b. If known by the petitioner, each person who had the principal care and custody of the minor during the 60 days preceding the filing of the petition.
 - c. The parents of the minor or, if neither of them is living, any grandparents and the adult presumptive heirs of the minor.
 - d. The nominated guardian.
 - e. A guardian or conservator appointed by a court in another states to make decisions regarding the person of a minor.
 - f. The guardian of any person identified in paragraphs a-d.
 - g. An attorney who has entered an appearance for any person identified in the above paragraphs.

5. Petition
 - a. The name, address and telephone number of the nominated guardian must be stated on the petition.
 - b. The nominated guardian must a person who is willing and able to serve the welfare of the minor.
 - c. The minor may nominate his/her guardian if the minor is age 14 or older.

6. Birth Certificate – The petitioner must present the birth certificate of the minor prior to the hearing.
 - a. Photocopies of birth certificates are allowed.
 - b. Hospital records are not allowed

7. Death Certificate – When one or both parents of the minor are deceased, the death certificate must be presented by the petitioner prior to the hearing. Photocopies of death certificates are allowed.
8. Judgment of Divorce, Custody Orders, Judgment of Filiation, Affidavit of Parentage, etc. The petitioner must present these documents **prior to** the filing of the petition to establish whether a parent has physical custody of the minor and/or whether paternity of the minor has been established. Photocopies of these documents are allowed.
9. Fees. A filing fee of \$175.00 is required for each Petition for Guardianship. An additional \$12.00 fee is required for each certified Letter of Guardianship.
10. Fee Waiver. A petitioner who claims that his/her economic circumstances are such that he/she is unable to afford the filing fee may file an Affidavit and Order for Suspension of Fees/Costs (MC 20).
 - a. If the request for a waiver is based on the petitioner receiving government assistance, the petitioner must provide documentation verifying that assistance (e.g., DHS case number, Bridge Card).
 - b. If the request for a waiver is based on the petitioner being represented by a legal services program or assistance from a law school clinic because of indigence, verification of the legal services program or law school clinic is required.
 - c. All other requests for a waiver will be heard by the judge assigned to the file.
11. Service on Interested Parties.
 - a. The petitioner is responsible for serving the Petition for Appointment of Guardian of a Minor and the Notice of Hearing on all interested parties. Service is not necessary on an interested party who has signed a Waiver/Consent (PC 561) to the Guardianship.
 - b. Service may be accomplished:
 - i. By ordinary first class mail, registered mail or certified mail. The papers served in this manner must be placed in the mail at least 14 days before the date of the hearing.
 - ii. By personal service. The papers served in this manner must be served on the interested party at least 7 days before the date of the hearing.
 - iii. By publication in the Macomb County Legal News. Publication must occur at least 14 days before the date of the hearing. Service by publication may be used when the address of the interested party is unknown or unobtainable or the interested party has disappeared.
12. Publication.
 - a. If either parent's whereabouts are unknown, they must be served by publication.
 - b. The fee for publication in the Macomb County Legal News as of **December 2019** is **\$93.80**, which is not included in the filing fee.
 - c. Forms to be used:
 - i. PC 563 Publication of Notice of Hearing
 - ii. PC 617 Declaration of Intent to Give Notice By Publication.

13. Temporary Guardianships. MCL 700.5213(3);
 - a. A separate petition requesting a temporary guardian may be filed along with the initial petition for full guardianship or separately at any time after the filing of the initial petition but before the full hearing.
 - b. A temporary guardian may only be appointed when and the matter is heard by a judge.
 - c. The Court may appoint a temporary guardian for a period not to exceed 6 months.

14. Guardianship Investigation. Every petition for guardianship of a minor will require an investigation. The Probate Court Guardianship Supervisor and the Department of Human Services/Children's Protective Services conduct a home study, a criminal background check and Central Registry check on the proposed guardian and all members of their household.
 - a. A criminal background check and Central Registry check will be done on all initial guardianship files.
 - b. A CPS home study will also be done for the following files:
 - i. If there has been any involvement by DHS/CPS with the minor or the minor's parents, a home study will be conducted.
 - ii. The ward/child is an infant up to 12 months of age, regardless of their relationship to the proposed guardian.
 - iii. If the proposed guardian is a non-relative (any proposed guardian who is **not** related to the minor by blood, cousin of any degree and spouses of relatives who are proposed guardians). Relatives include: great grandparents, grandparents, aunts, uncles, sisters, or brothers.
 - c. Out-of-state guardian – If the proposed guardian lives outside of the State of Michigan, the petitioner or proposed guardian is required to contact the agency in that state which has a similar function to Children's Protective Services, or other licensed social service agency to do an in-home investigation of the proposed out-of-state guardian, and provide the Court with a written report seven (7) days prior to the hearing. The cost of such investigation is the responsibility of the petitioner and/or the out-of-state guardian. Guardianship Supervisor is available to assist the petitioner in locating such an agency. In certain cases, DHS may contact an out of state social service agency to perform the investigation.

15. Hearing Dates – Minor Guardianship hearings are scheduled on Mondays, Wednesdays or Fridays at either 9:00 a.m. or 1:30 p.m. unless otherwise permitted by the Judge or Director of Legal Services. Hearings to be held in front of Judge George will be on Tuesdays.

16. Hearings.
 - a. A Court Attorney may conduct the hearing when the petition is uncontested, service is proper, and the home study and clearances are favorable.

- b. At any time prior to the commencement or during the hearing, any interested person may request that the matter be heard before a judge. MCL 600.834(4).
- c. Generally, it will not be necessary for the minor to attend the hearing. However, if the minor is age 14 or older, they are entitled to attend the hearing if they choose to do so.
- d. If the matter is contested, or there are special or unusual circumstances involved in the guardianship, the matter will be heard by a judge.
- e. During the hearing for full guardianship, the following must be established by a preponderance of the evidence:
 - i. The subject matter of the petition is, in fact, a minor.
 - ii. The minor either resided in or was present in the County on the date when the petition was filed.
 - iii. The identity and status of the minor's parents.
 - iv. All interested parties were properly served.
 - v. The welfare of the minor would be served by the appointment of a guardian.
 - vi. One of the three circumstances for full guardianship as set forth in MCL 700.5204 existed at the time the petition was filed.

17. Post Hearing.

- a. The guardian must complete and sign the Acceptance of Appointment (PC 571).
- b. The Order Regarding Appointment of Guardian/Limited Guardian of a Minor (PC 653) must be properly completed.
 - i. One of the three factors for full guardianship must be checked in Paragraph 4 of the Order for full guardianship.
 - ii. Paragraph 5 must be checked for a limited guardianship.
 - iii. When Children's Protective Services, the Department of Human Services or Juvenile Court is involved in the guardianship or with the minor, Paragraph 14 of the Order may contain the following language: *No transfer/change of placement of minor child without court order.*
 - iv. The Order may also contain other restrictions that the Court wishes to place on the Guardian's authority.
- c. Letters of Guardianship (PC 633) will be issued, which may contain restrictions that the Court wishes to place on the Guardian's authority.
- d. Annual Report of Guardian on Condition of Minor (PC 654). The report is due one year from the date of the appointment of a guardian by the Court. The report must be completed and signed by the guardian(s).

18. Modification or Termination of Guardianship of Minor

- a. In a limited guardianship, the parent(s) with right to custody of the minor may file to terminate the guardianship. MCL 700.5208(1)(a).
- b. In a full guardianship, the minor's parent(s) may file a petition to terminate the guardianship. MCL 700.5208(1)(b).
- c. A person interested in the ward's welfare or, if 14 years of age or older, the ward may petition to modify the guardianship. MCL 700.5219.