

Appointment of Guardian of Minor Checklist

The following checklist is based on [MCL 700.5201](#), [MCL 700.5204](#), and [MCR 5.404](#).¹ The court must appoint a guardian if, upon hearing, it finds that a qualified person seeks appointment, venue is proper, the required notices have been given, the requirements of [MCL 700.5204](#) or of [MCL 700.5205-MCL 700.5206](#) are satisfied, and the minor's welfare will be served by the requested appointment.² [MCL 700.5213\(2\)](#).

Note: Appoint a lawyer-guardian ad litem if at any time in the proceeding, the minor's interests are or may be inadequately represented. Give consideration to the preference of the minor if the minor is 14 years of age or older. [MCL 700.5213\(4\)](#).

- Venue is proper (i.e., in the place where the minor resides or is present at the time the proceeding is commenced). [MCL 700.5211](#).
- Petition was filed on SCAO-approved form.³ [MCR 5.404\(A\)\(1\)](#).
- Petition was filed by a person interested in the welfare of a minor, the minor if he/she is 14 years of age or older, or the limited guardian.⁴ [MCL 700.5204\(1\)](#); [MCL 700.5204\(3\)](#); [MCR 5.402\(B\)](#).
- Petition states that the minor is not an Indian child or that the child's status as an Indian child is unknown.⁵ [MCR 5.404\(A\)\(1\)](#).

¹ For additional information on appointment of guardians of minors, see Section I

² In other cases, the court may dismiss the proceeding or make another disposition of the matter that will serve the minor's welfare. [MCL 700.5213\(2\)](#).

³ *Petition for Appointment of Guardian of Minor*, PC 651 (Involuntary Guardianship).

⁴ If limited guardian is petitioning, petition must not be based upon suspension of parental rights by the order that appointed the limited guardian. [MCL 700.5204\(3\)](#).

- If requested, all documented efforts made to determine a child's membership or eligibility for membership in an Indian tribe have been provided to the court and parent(s). [MCR 5.404\(A\)\(1\)](#).
- If the petition states that it is unknown whether the minor is an Indian child, the investigation includes an inquiry into Indian tribal membership.⁶ [MCR 5.404\(A\)\(2\)](#).
- Proper notice of hearing by petitioner. [MCL 700.5213\(1\)](#); [MCR 5.402\(C\)](#); [MCR 5.125\(C\)\(20\)-\(21\)](#).
- May permit use of videoconferencing technology in accordance with [MCR 2.407](#), if requested by a participant or sua sponte.⁷ [MCR 5.140\(A\)](#). “[I]f the subject of the petition wants to be physically present, the court must allow the individual to be present.”⁸ [MCR 5.140\(C\)](#).
- The DHHS or a court employee conducted an investigation into the guardianship, as ordered.⁹ [MCL 700.5204\(1\)](#); [MCR 5.404\(A\)\(2\)](#).
- A Computerized Criminal History (CCH)/Criminal History Record (CHR) and/or Central Registry (CR) clearance was completed for the nominated guardian, if ordered.
- Ensure petitioner filed a social history on a SCAO-approved form (*Minor Guardianship Social History*, PC 670) before holding the hearing. [MCR 5.404\(A\)\(4\)](#).
- Appointing a guardian for an unmarried minor is proper under [MCL 700.5204\(2\)](#).
 - Parental rights of both parents or surviving parent are terminated/suspended by prior court order; by judgment of divorce/separate maintenance; by death; by judicial determination of mental incompetency; by disappearance;

⁵ If petition states that the minor *is* an Indian child, do not continue with this checklist. See Section VI. If petition *does not state* whether the child is an Indian child, the court must inquire if the child or either parent is a member of an Indian tribe, [MCR 5.404\(D\)](#), and if so, the court must either dismiss the petition or allow the petitioner to comply with [MCR 5.404\(A\)\(1\)](#). [MCR 5.404\(D\)](#).

⁶ If this has not been done, do not continue with the proceeding. Order the DHHS or court employee to make this inquiry before proceeding.

⁷ If videoconferencing technology is used, it must be “in accordance with the standards established by the State Court Administrative Office[,]” and the proceeding “must be recorded verbatim by the court.” [MCR 5.140\(E\)](#).

⁸ “The right to be physically present for the subject of a minor guardianship applies only to a minor 14 years of age or older.” [MCR 5.140\(C\)](#).

⁹ Ordering an investigation is not required. [MCL 700.5204\(1\)](#); [MCR 5.404\(A\)\(2\)](#).

or by confinement in a place of detention. [MCL 700.5204\(2\)\(a\)](#).

- Parent(s) permit minor to reside with another person and do not provide the other person with legal authority for minor's care/maintenance, and minor is not residing with his/her parent(s) when petition is filed. [MCL 700.5204\(2\)\(b\)](#).
 - All of the following: minor's biological parents have never been married to one another; minor's parent who has custody of the minor dies/is missing and other parent has not been granted legal custody under court order; person whom petition asks to be appointed guardian is related to minor within fifth degree by marriage/blood/adoption. [MCL 700.5204\(2\)\(c\)](#).
- A guardian appointed under [MCL 700.5202](#) (parental appointment of guardian for minor by will) whose appointment is not prevented or nullified under [MCL 700.5203](#) (minor 14 years of age or older may prevent/terminate parental appointment of guardian) has priority over a guardian who may be appointed by the court. [MCL 700.5204\(4\)](#). The court may proceed with an appointment upon a finding that a guardian appointed in a manner described in [MCL 700.5202](#) has failed to accept the appointment within 28 days after the notice of the guardianship proceeding. [MCL 700.5204\(4\)](#).
- Order minor ward's parents to pay reasonable support and/or parenting time if necessary for minor's welfare. [MCL 700.5204\(5\)](#).
- Appoint guardian ad litem if assistance is needed to determine minor's best interests. [MCL 700.5213\(6\)](#).
- Appoint temporary guardian with status of ordinary guardian, if necessary, for period not to exceed six months. [MCL 700.5213\(3\)](#).
- Appoint guardian who will serve minor's welfare, if he/she is under 14 years of age. [MCL 700.5212](#); [MCL 700.5213\(2\)](#).
- Appoint person nominated by minor 14 years of age or older unless appointment is contrary to minor's welfare. [MCL 700.5212](#); [MCL 700.5213\(2\)](#).
- Discuss the parties' expectations on the record, e.g., duration of guardianship (short-term vs. indefinite), so that everyone involved is clear on the overall guardianship plan.

- Order, as appropriate, reasonable compensation for guardian's services and reimbursement to guardian for room, board, and clothing personally provided to the ward. [MCL 700.5216\(1\)](#).

Court form to use:

Order Regarding Appointment of Guardian/Limited Guardian of Minor,
PC 653