

ANATOMY OF A PROBATE CASE
Guardianships & Conservatorships - Basics

By

Jennifer Parmalee
Chief Deputy Probate Register
Wayne County Probate Court

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- I. Guardianship and Conservatorship Basics**
 - a. Key Definitions**
 - i. Guardian under EPIC or a Guardian of the Person under MHC – a person or entity appointed by the court and who has qualified to take care of the physical needs of the person (where they live, medical treatment, where they go to school, their clothing, food, etc.)
A guardian “guards” the person and is responsible for their physical well-being.
 - ii. Conservator under EPIC or a Guardian of the Estate under MHC – a person or entity appointed by the court who has qualified to manage a person’s

money and property (assets, income, debts, etc.) such as to pay bills, manage investments, manage real estate, etc.

A conservator “conserves” the person’s money and assets.

b. Basis for Guardianship and Conservatorship proceedings

- i. Basis for adult proceedings – When an adult needs help taking care of themselves and making decisions, or needs assistance managing their assets, income, and expenses
 1. **SCAO [PC 666](#)** details the options available including a Durable Power of Attorney, Health Care Power of Attorney/Patient Advocate, Guardianship, Conservatorship, Do Not Resuscitate Order, or Physician Orders for Scope of Treatment (POST) Form; see [MCL 700.5303\(2\)](#)
- ii. Basis for minor proceedings - When a minor child receives assets that require management or needs someone with legal authority to make decisions for the minor
 1. Probate Court does not remove children from parents – actions for removal of children from parents and related guardianships are under the jurisdiction of the Juvenile Division of the Family Court in Circuit Court

c. Types of Guardianships and Conservatorships

- i. Developmentally Disabled Adults – under the Mental Health Code, Chapter 6 ([MCL 330-1600 - 330.1644](#)) - note: an appointment of a guardian for a developmentally disabled adult shall be made only under the MHC Chapter 6 ([MCL 330.1604\(2\)](#)).
 1. Applies to guardianship of the person and guardianship of the estate
 2. Case codes: DD (guardianship of person) and DDT (guardianship of estate)
 3. Partial guardian vs. Plenary guardian
 - a. An individual for whom a partial guardianship has been appointed retains all legal and civil rights except those that are ordered as designated powers granted to the partial guardian ([MCL 330.1620](#))
 - b. Partial guardianship is the preferred form of guardianship for an individual with a developmental disability ([MCL 330.1602\(2\)](#))
 - c. A partial guardian shall not be appointed for a term greater than 5 years ([MCL 330.1626](#))
 4. Standby Guardian under the MHC – the court may designate 1 or more standby guardians whose appointment comes effective without further proceedings immediately upon the death, incapacity, or resignation of the guardian; the powers and duties are the same of the original guardian. [MCL 330.1640](#).

- ii. Adult Guardianships – under Article V of EPIC, [MCL 700.5301-700.5319](#)
 - 1. (Full) guardianship – where the court finds that the ward lacks total capacity ([MCL 700.5306\(4\)](#))– the powers of the guardian are all those conferred by law except and specific restrictions on the letters of authority and as ordered by the court
 - a. Case type code GA
 - 2. Limited guardianship – where the court finds that the ward lacks capacity to do some, but not all, of the tasks necessary to care for himself or herself ([MCL 700.5306\(3\)](#)) – the powers of the guardian are limited to the necessary tasks
 - a. Case type code GL
- iii. Minor Guardianships – under Article V of EPIC, [MCL 700.5201-700.5219](#)
 - 1. Limited Guardianships – specific type of minor guardianship brought on petition of the parent(s) and upon the consent of the custodial parent(s), and includes a placement plan agreed to by the custodial parent(s) and the proposed limited guardian; [MCL 700.5205](#)
 - a. Case code - LG
 - 2. Full Guardianships – guardianship of a minor until the minor reaches age 18, or is terminated by order of the court
 - a. Case code: GM
- iv. Adult & Minor Conservatorships and Protective Orders – under Article V of EPIC, [MCL 700.5401-700.5433](#)
 - 1. Adult Conservatorship, Case type code: CA
 - 2. Minor Conservatorship, Case type code: CY
 - 3. Protective order for minor or adult, Case type code: PO

II. Court Procedures for Establishing Guardianships and Conservatorships

- a. Developmentally Disabled Adult Guardianships of Person or Estate
 - i. Initiated by filing a Petition for Appointment of Guardian, Individual with Alleged Developmental Disability, [PC 658](#), by an interested person or entity (defined as an adult relative or friend of the respondent, an official or representative of a public or private agency, corporation, or association concerned with the individual's welfare, or any other person found suitable by the court. [MCL 330.1600\(c\)](#))
 - ii. The petition must be accompanied with a report that describes the disability, includes current evaluations of the respondent's condition, skills, and abilities, and includes an opinion as type and scope of guardianship. This report must be prepared and filed with the court not less than 10 days before the hearing [MCL 330.1612](#)
 - iii. Petition and necessary report are submitted to the Court through the BHU (BHUDept@wcpc.us)
 - iv. No filing fee is required

- v. Once filed, the court schedules a hearing within 30 days and appoints an attorney on behalf of the ward for the petition and related hearing **MCL 330.1614 and 330.1615**
- vi. The DD docket schedule for the current and upcoming year is found on the court's website at: [WCPC - Working Hours](#)
- vii. The court must find by clear and convincing evidence that the appointment of the guardian is necessary to grant the petition. [MCL 330.1618](#)
- b. Adult Guardianships – same procedure for limited and full guardianships
 - i. Proper venue: where the ward resides or is present, or if admitted to an institution by court order, then in the county of that court
 - ii. Initiated by filing a Petition for Appointment of Guardian of Incapacitated Individual, [PC 625](#), by the individual on their own behalf or by any person interested in that individual's welfare
 - iii. Case initiating filing fee of \$175
 - iv. Petition must be submitted to probateservice@wcpc.us
 - v. Once filed and fee paid, court schedules hearing to occur typically within 3-6 weeks; if temporary guardian is requested, an emergency hearing may also be scheduled prior to full hearing if the judge determines the emergency hearing is warranted – for these requests the petition should state the emergency and it is advised that the Request for Emergency Hearing, [WCPC 96](#), is submitted with the petition
 - vi. The court must find by clear and convincing evidence that the appointment of a guardian is necessary; [MCL 700.5306](#)
- c. Minors – different procedure for limited and full guardianships
 - i. Venue for minor guardianships is the place where the minor resides or is present at the time the proceeding is commenced; [MCL 700.5211](#)
 - ii. Initiation of Limited Guardianship - Initiated by filing of [PC 650](#), Petition for Appointment of Limited Guardian of Minor, and [PC 652](#), Limited Guardianship Placement Plan, filed by parent(s)
 - 1. [MCL 700.5205\(1\)](#): The court may appoint a limited guardian for an unmarried minor upon the petition of the minor's parent or parents if all of the following requirements are met:
 - a. The parents with custody of the minor consent or, in the case of only 1 parent having custody of the minor, the sole parent consents to the appointment of a limited guardian.
 - b. The parent or parents voluntarily consent to the suspension of their parental rights.
 - c. The court approves a limited guardianship placement plan agreed to by both of the following parties:
 - i. The parents with custody of the minor or, in the case of only 1 parent having custody of the minor, the sole parent who has custody of the minor.

- ii. The person or persons whom the court will appoint as the minor's limited guardian.
- iii. Initiation of Full Minor Guardianship -- Initiated by filing of Petition for Appointment of Guardian of Minor, [PC 651](#)¹, and the Minor Guardianship Social History², [PC670](#), filed by a person interested in the welfare of the minor or by the minor if 14 years of age or older; [MCL 700.5204](#)
 - 1. Court must find that one of the following circumstances exists:
 - a. The parental rights of both parents or the surviving parent are terminated or suspended by prior court order, by judgment of divorce or separate maintenance, by death, by judicial determination of mental incompetency, by disappearance, or by confinement in a place of detention.
 - b. The parent or parents permit the minor to reside with another person and do not provide the other person with legal authority for the minor's care and maintenance, and the minor is not residing with his or her parent or parents when the petition is filed.
 - 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.
- iv. Case initiation filing fee of \$175
- v. Petitions submitted to probateservice@wcpc.us
- vi. Once filed and fee paid, court schedules hearing to occur typically within 3-6 weeks; if temporary guardian is requested, an emergency hearing may also be scheduled prior to full hearing if the judge determines the emergency hearing is warranted – for these requests the petition should state the emergency and it is advised that the Request for Emergency Hearing, [WCPC 96](#), is submitted with the petition
- d. Conservatorships and Protective Orders of Adults or Minors
 - i. Venue is proper in the county where the ward resides or if the ward does not reside in Michigan, in the county where property of that individual is located; [MCL 700.5403](#)

¹ Note: If the minor is a member of a tribe recognized through the Michigan Indian Family Preservation Act ([MCL 712B.1-712B.41](#)) use the correct forms (see PC 651ia and PC 651ib) and follow the specific procedural and notice requirements set forth by statute and court rule – these are outside the scope of this presentation.

² The Minor Guardian Social History form must be filed before a hearing is held on a petition for guardianship, and this form is confidential. [MCR 5.404\(A\)](#)

- ii. Initiated by the filing of a Petition for Appointment of Conservator/Protective Order, [PC 639](#), by the individual to be protected, a person who is interested in the individual's estate, affairs, or welfare, or a person who would be adversely affected by lack of management of the individual's property; [MCL 700.5404](#)
- iii. Case initiation filing fee of \$175
- iv. Petitions submitted to probateservice@wcpc.us
- v. Once filed and fee paid, court schedules hearing to occur typically within 3-6 weeks; if temporary guardian is requested, an emergency hearing may also be scheduled prior to full hearing if the judge determines the emergency hearing is warranted – for these requests the petition should state the emergency and it is advised that the Request for Emergency Hearing, [WCPC 96](#), is submitted with the petition
- vi. The court must find by clear and convincing evidence that the appointment of a conservator or protective order is necessary; [MCL 700.5406\(7\)](#)

III. Administration Basics

- a. Qualification of Fiduciary – by Acceptance of Appointment and bond, if ordered – use [WCPC 805](#) for DD and DDT cases, [WCPC 571](#) for all others, new bonds must be accompanied with the completed Bond of Fiduciary, [PC 570](#)
- b. Initial reports
 - i. Conservators and Guardians of Estate - File an Inventory, [PC 674](#) and proof of service, [PC 564](#), within 56 days after appointment. [MCR 5.409\(B\)](#)
 - ii. Adult Guardians – As of September 15, 2025, Wayne County Probate Court requires the guardian file a Guardian's Financial Disclosure of Ward's Assets ([WCPC 262](#)) and Proof of service (PC 564), within 56 days after appointment, per order of the court and see MCR 5.409(B).
 - iii. Conservators, when ordered to do so, must also file a Proof of Restricted Account and Verification of Funds on Deposit ([PC 669](#)) and the corresponding financial statement within 28 days of conservator's qualification or as otherwise ordered. MCR 5.409(C)(4).
- c. Annual reports
 - i. Annual reports on condition (guardianships) due within 56 Days of annual anniversary date of appointment ([MCR 5.409\(A\)](#))
 - 1. DD cases: file the Report of Guardian on Condition of Individual with Developmental Disability, [PC 663](#). [MCL 330.1631\(2\)](#)
 - 2. GA and GL cases – file the Annual Report of Guardian on Condition of Legally Incapacitated Individual, [PC 634](#), and if assets or income changes from that previously reported, also file the Guardian's Financial Disclosure of Ward's Assets, [WCPC 262](#), and the Proof of service, PC 564, indicating these documents have been served on all interested parties including the ward; [MCL 5.125\(C\)\(23\)](#) and MCL 700.5319(2). Note, the guardian shall commence a protective proceeding if the ward's property needs protection, and WCPC

directs that if there is no conservatorship and the ward's assets exceed \$10,000, the guardian is to file a protective order or conservatorship petition.

3. GM and LG cases – [PC 654](#), and the Proof of service, PC 564, indicating these documents have been served on all interested parties including the minor must also be served if 14 years of age or older. [MCL 5.125\(C\)\(24\)](#)
- ii. Annual Accounts – CA, CY, and DDT cases, within 56 days after end of accounting period/annual anniversary of issuance date of letters of authority. MCR 5.409(C).
 1. Note: Whenever the court appoints a plenary guardian of the estate or a partial guardian with powers or duties respecting real or personal property, that guardian shall be considered a fiduciary for the purposes of EPIC. [MCL 330.1632](#).
 2. If the court ordered the assets to be held in a restricted account, then also the Annual verification of assets (restricted accounts) Proof of Restricted Account and Verification of Funds on Deposit ([PC 669](#)) are required
 3. Accounts shall be set for hearing to determine whether they will be allowed at least once every 3 years.
- d. Modifications
 - i. Petitions to modify guardianship (minor or adult) [PC675](#); if the guardian wishes to resign or the ward or any other person interested in the ward's welfare may request a modification or removal of the guardian and appointment of a successor; [MCL 700.5310](#)
 1. Succession of standby guardian – at WCPC, upon the filing of the death certificate of the primary guardian, the standby guardian will be issued LOA as the successor guardian; no petition is required and no hearing is held
 - ii. Petition to modify guardian for developmentally disabled individual ([PC677](#)), note, if the request is to change powers, [PC659](#) Report is required as well; See [MCL 330.1637](#).
 1. Succession of standby guardian - At WCPC, when a guardian in a DD case dies or resigns, the standby guardian submits an Acceptance of Appointment, [WCPC 805](#), to the BHU (BHUDept@wcpc.us) to obtain Letters of authority. No petition for modification is required, nor is a hearing held.
 - iii. Petition to terminate/modify conservatorship for adult or minor, [PC 676](#), see [MCL 700.5414](#) – may remove a conservator for good cause or accept conservator's resignation, and may appoint a successor
- e. Guardianship Reviews

- i. Adult guardianships – The court shall review a guardianship not later than 1 year after the initial appointment and not later than every 3 years thereafter; [MCL 700.5309](#)
- ii. Minor guardianships – The court may review a minor guardianship annually if the minor is under 6, and otherwise as it considers necessary; and may order the family independence agency (in WCPC, Orchards Children Services of MDHHS) to conduct an investigation and file a report; [MCL 700.5207](#)

IV. Termination and Closing of Estates (*will be discussed in separate presentation)

a. Guardianships of Individual or Estate

- i. Partial Guardianships automatically terminate 5 years after order establishing the guardianship
- ii. Otherwise, the partial guardianship may terminate before 5-year expiration date, or a plenary guardianship may terminate via the following filings:
 - 1. For guardianships of individual –via filing of final report ([PC663](#)) and death certificate/proof of death, or if the ward is not deceased via filing of a Petition to Terminate ([PC677](#));
 - 2. For guardianships of the estate – via filing of a Petition to Allow (Final) Account ([PC 585a](#)), with account ([PC 584](#)) **and** Petition to Terminate ([PC677](#)), See [MCL 330.1637](#).
 - 3. See [MCL 330.1644](#)

b. Adult Guardianship (limited or full)

- i. If the ward dies, then via filing of final report ([PC 634](#)) and death certificate
- ii. If the ward is not deceased, via filing a Petition to terminate guardianship ([PC675](#))

c. Minor Guardianships (limited or full)

- i. Case automatically terminates when minor reaches age 18
- ii. If the minor dies prior to reach age 18, then via the filing of the minor's death certificate
- iii. If the request is to terminate the guardianship prior to age 18, then via the Petition to terminate, [PC675](#)

d. Protective Orders

- i. These cases close per the terms of the protective order, usually upon entrance of the order or after the filing of any requisite proof of transfer or receipts as may be ordered in the protective order

e. Adult Conservatorships

- i. Via Petition to Allow Final Account ([PC 585a](#)), the account ([PC 584](#)), and a Petition to Terminate ([PC 676](#))

f. Minor Conservatorships

- i. When the minor reaches as 18 (the age of majority), via the filing of the Minor Final Account, [PC648m](#), and related Receipt of Ward and Discharge, [PC649](#)
- ii. Note: if the case is administratively closed prior to the ward reaching age 18, once the former minor reaches age 18, the minor can petition the court to release the funds by using the PC648m (there is no fee for this petition and usually the court reviews this petition ex parte, without hearing, to expedite the process)
- iii. If termination is desired sooner, then via the Petition to Terminate ([PC676](#)) and the Petition to Allow Final Account ([PC 585a](#)), with the account ([PC 584](#)).