

**GUIDELINES FOR
GUARDIAN AD LITEM REPORTS AND GUARDIAN REVIEWS**

1. In performing your duties as a guardian ad litem, refer to MCL 700.5305, MCL 700.1403(d) and MCR 5.121. Review MCL 700.5303, 700.5304, 700.5305 and 700.5406 dealing with incapacitated individuals and protective proceedings.

2. Contact the home, convalescent center, or hospital facility where the alleged incapacitated individual is presently found, according to the petition. Check with the petitioner to see if the incapacitated individual has recently been moved. If you learn the respondent is deceased, do not prepare a full report. Just write “ward deceased” on the Acceptance of Appointment and Report of Guardian Ad Litem of Alleged Incapacitated Individual (PC627), Acceptance of Appointment and Report of Guardian Ad Litem (PC643), or Report on Review of Guardianship of Legally Incapacitated Individual (PC 636). You will not be paid.

The ward is to be served electronically by the GAL at least 7 days prior to the hearing date with a copy of the petition.

The Court’s policy does not require in-person GAL visits, virtual visits are acceptable, and telephone visits can be acceptable if this is the only means available. However, the appointed GAL is required to personally visit with the alleged incapacitated individual, staff may not complete this visit on your behalf. Note: For guardian reviews, it is not necessary to include any medical records or copies of financial statements with your report.

3. During your meeting with the subject of the petition, explain the purpose of your visit and the nature of the petition before the court. Explain that you have been appointed by the court to protect the interest of the alleged incapacitated individual. Ascertain whether the incapacitated individual is able to discuss the matter and give his or her viewpoint. Ask whether there is concurrence with having the nominated person act as a Guardian or Conservator.

Are there any objections to the nomination? If so, is the objection to the individual nominated to be guardian or is the objection to anyone serving as guardian? Make sure you explain the concerns/objections raised in the PC627 Acceptance of Appointment and Report of Guardian Ad Litem of Alleged Incapacitated Individual and if the ward objects, also fill out and file a WCPC 260, Objection to Petition for Appointment of Guardian or Conservator, on behalf of the proposed ward. Sign and submit this item with your GAL report. If the alleged incapacitated individual indicates he/she/they want some other individual to serve, the Guardian Ad Litem should contact that individual to determine if she/he is willing to serve and is an appropriate person. The GAL should encourage this nominated individual to attend the hearing and provide the individual with the hearing information. If there is an objection to the petition for appointment of a fiduciary, determine if there is any urgent issue or interest to be protected in the interim that might require the appointment of a temporary guardian or special conservator, and if so, make sure you report such to the court.

4. If possible, determine whether a guardian or a conservator is necessary. Can the incapacitated individual manage his/her financial affairs? Does the incapacitated individual need someone to give consent for medical attention or some other informal consent for the incapacitated individual? Perhaps there is a need for one, but not the other? Can a less restrictive method, such as a power of attorney, be adequate to meet the needs of the individual?

5. Determine, if you can, the income and assets of the incapacitated individual--Social Security, personal retirement income, rents, bank savings, checking, savings certificates, real estate, stocks, bonds, and any

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other assets. Are the assets held individually or jointly with someone else? If only a guardianship petition is filed, but it appears appropriate or necessary that a conservatorship petition be filed, indicate such in your report. As to GAL reports regarding the appointment of a conservator, always remember to make a recommendation as to bond. Discuss the possibility of bond with the petitioner to ascertain if the nominated fiduciary may not qualify, and if so, discuss alternative appointments.

6. Check with the facility personnel to evaluate how the incapacitated individual has been getting along. Is there any prognosis?

7. Contact the petitioner and the attorney for the petitioner for further details if needed.

8. Do ***not*** rely solely on the representations of the petitioner or the petitioner's attorney. **Verify matters on your own. That is why you were appointed. The court wants your independent investigation, evaluation, and recommendation. You may contact other parties.**

9. Questions concerning the specific requirements of individual judges for their GAL reports should be addressed to their respective staffs.

10. Except for emergency hearings, the GAL report is to be filed with the court no less than 3 workdays prior to the hearing. Submit the report via email or fax to the court. The contact information for each judge is listed below.

<u>Office</u>	<u>Email</u>	<u>Fax Number</u>
Judge Freddie G. Burton Jr.	FGBStaff@wcpc.us	(313) 967-4045
Judge David Braxton	DBStaff@wcpc.us	(313) 967-4014
Judge David A. Perkins	DAPStaff@wcpc.us	(313) 967-4010
Judge Judy A. Hartsfield	JAHStaff@wcpc.us	(313) 967-4039
Judge Lawrence J. Paolucci	LJPStaff@wcpc.us	(313) 967-4020
Judge Terrance A. Keith	TAKStaff@wcpc.us	(313) 967-4023

11. Include the date and time of hearing on the front page of your written report.

12. Appear in court via Zoom on the date of hearing and be prepared to expand upon your report, if necessary. This may be necessary particularly where objections are filed to the appointment of a guardian or conservator.

DUTIES OF GUARDIAN AD LITEM - MCL 700.5305

700.5305 Guardian ad litem; duties; compensation; legal counsel.

Sec. 5305.

(1) The duties of a guardian ad litem appointed for an individual alleged to be incapacitated include all of the following:

- (a) Personally visiting the individual.
- (b) Explaining to the individual the nature, purpose, and legal effects of a guardian's appointment.
- (c) Explaining to the individual the hearing procedure and the individual's rights in the hearing procedure, including, but not limited to, all of the following:
 - (i) The right to contest the petition.
 - (ii) The right to request limits on the guardian's powers, including a limitation on the guardian's power to execute on behalf of the ward either of the following:
 - (A) A do-not-resuscitate order.
 - (B) A physician orders for scope of treatment form.
 - (iii) The right to object to a particular person being appointed guardian or designated as standby guardian.
 - (iv) The right to be present at the hearing.
 - (v) The right to be represented by legal counsel.
 - (vi) The right to have legal counsel appointed for the individual if he or she is unable to afford legal counsel.
- (d) Informing the individual that if a guardian is appointed, the guardian may have the power to execute a do-not-resuscitate order on behalf of the individual and, if meaningful communication is possible, discern if the individual objects to having a do-not-resuscitate order executed on his or her behalf.
- (e) Informing the individual that if a guardian is appointed, the guardian may have the power to execute a physician orders for scope of treatment form on behalf of the individual and, if meaningful communication is possible, discern if the individual objects to having a physician orders for scope of treatment form executed on his or her behalf.
- (f) Informing the individual of the name of each person known to be seeking appointment as guardian or designation as standby guardian.
- (g) Asking the individual and the petitioner about the amount of cash and property readily convertible into cash that is in the individual's estate.
- (h) Making determinations, and informing the court of those determinations, on all of the following:
 - (i) Whether there are 1 or more appropriate alternatives to the appointment of a full guardian or whether 1 or more actions should be taken in addition to the appointment of a guardian. Before informing the court of his or her determination under this subparagraph, the guardian ad litem shall consider the appropriateness of at least each of the following as alternatives or additional actions:
 - (A) Appointment of a limited guardian, including the specific powers and limitation on those powers the guardian ad litem believes appropriate.
 - (B) Appointment of a conservator or another protective order under part 4 of this article. In the report informing the court of the determinations under this subdivision, the guardian ad litem shall include an estimate of the amount of cash and property readily convertible into cash that is in the individual's estate.
 - (C) Execution of a patient advocate designation, do-not-resuscitate order, physician orders for scope of treatment form, or durable power of attorney with or without limitations on purpose, authority, or duration.
 - (ii) Whether a disagreement or dispute related to the guardianship petition might be resolved through court ordered mediation.
 - (iii) Whether the individual wishes to be present at the hearing.

- (iv) Whether the individual wishes to contest the petition.
 - (v) Whether the individual wishes limits placed on the guardian's powers.
 - (vi) Whether the individual objects to having a do-not-resuscitate order executed on his or her behalf.
 - (vii) Whether the individual objects to having a physician orders for scope of treatment form executed on his or her behalf.
 - (viii) Whether the individual objects to a particular person being appointed guardian or designated as standby guardian.
- (2) The court shall not order compensation of the guardian ad litem unless the guardian ad litem states on the record or in the guardian ad litem's written report that he or she has complied with subsection (1).
- (3) If the individual alleged to be incapacitated wishes to contest the petition, to have limits placed on the guardian's powers, or to object to a particular person being appointed guardian and if legal counsel has not been secured, the court shall appoint legal counsel to represent the individual alleged to be incapacitated. If the individual alleged to be incapacitated is indigent, this state shall bear the expense of legal counsel.
- (4) If the individual alleged to be incapacitated requests legal counsel or the guardian ad litem determines it is in the individual's best interest to have legal counsel, and if legal counsel has not been secured, the court shall appoint legal counsel. If the individual alleged to be incapacitated is indigent, this state shall bear the expense of legal counsel.
- (5) If the individual alleged to be incapacitated has legal counsel appointed under subsection (3) or (4), the appointment of a guardian ad litem terminates.

History: 1998, Act 386, Eff. Apr. 1, 2000 ;-- Am. 2000, Act 464, Eff. June 1, 2001 ;-- Am. 2012, Act 210, Eff. Oct. 1, 2012 ;-- Am. 2013, Act 157, Eff. Feb. 3, 2014 ;-- Am. 2017, Act 155, Eff. Feb. 6, 2018; -
-Am 2024 Act 1, Imd Eff. Feb. 21, 2024

Popular Name: EPIC