

Guardianship Petitions and SIJ

Guardianship of a minor (GM)

- Person interested in the welfare of a minor, or a minor if 14 years of age or older, has standing to petition for guardianship of a minor. [MCL 700.5204\(1\)](#)

Applicable laws

- Estates and Protected Individuals Code (“EPIC”), [MCL 700.1101](#) et seq., [MCL 700.5204](#) et seq.
- Probate Court Rules, [MCR 5.200](#) et seq.

Jurisdiction and Venue

- File a petition in the Probate Court of the county where the minor resides or is present. [MCL 700.5211](#) The Estates and Protected Individuals Code (“EPIC”), [MCL 700.1101](#).
- The family division of the circuit court also has ancillary jurisdiction. [MCL 600.841](#); [600.1021](#)

Guardianship Filing

Court Forms Required to File New Guardianships

Check with the individual county to see if they have special forms to file in addition to those listed above.

1. [MC 20 Fee Waiver Request](#)
2. [MC 81 Request and Order for Interpreter](#)
3. [PC 651 Petition for Appointment of Guardian of Minor](#)
4. [PC 670 Minor Guardianship Social History](#)
5. [PC 635 Order Appointing Person to Review/Investigate Guardianship](#)
6. [PC 562 Notice of Hearing](#)
7. [PC 571 Acceptance of Appointment](#)
 - a. [MC97a Protected Personal Identifying Information](#)
8. [PC 653 Order Regarding Appointment of Guardian of a Minor](#)
9. [PC 633 Letters of Guardianship](#)

Client Documents Required

1. Minor’s birth certificate with certified translation or other government-issued document with biographical information
2. Proposed guardian’s government-issued photo identification
3. Foreign IDs are acceptable

Motion for Special Determinations on the Issue of SIJ

All 3 documents should be filed with the initial guardianship petition:

1. Motion for Special Determinations on the Issue of Special Immigrant Juvenile Classification

2. Legal Brief with Exhibits (include minor's notarized affidavit)
3. Proposed Order for Special Determinations

Common Issues in Guardianships

Powers of Attorney

- Our guardianships are based on “the parent permit[ting] the minor to reside with another person and [not providing] the other person with legal authority for the care and maintenance of the minor and the minor . . . not residing with a parent at this time.”
- **Key Arguments:**
 - [MCL 700.5103\(1\)](#): Powers of attorney are *valid for 6 months* (180 days). If the POA was granted more than 6 months before the guardianship hearing, it is no longer valid and the petitioner has no legal authority to care for the child.
 - [MCL 700.5503\(2\)](#) does not allow a minor guardianship to be established by the parent's durable power of attorney. The power of attorney may, however, be considered as evidence when the court determines who will be appointed guardian.
 - POA does not divest the probate court of jurisdiction over guardianship proceedings: See [In re Martin](#), 237 Mich. App. 253 (Mich. Ct. App. 1999)

Timeline and Age Considerations

- The court has jurisdiction to grant a guardianship and issue SIJ determinations until the minor turns 18. Most courts schedule hearings at least **6 weeks** from the date of filing. If you are filing a petition for a child who will be turning 18 in 2-3 months, you should also file an ex parte petition for temporary guardianship. See MCR 5.403. If the court cannot hear the motion for SIJ before the minor's 18th birthday, it may be necessary to make a nunc pro tunc argument.
- **Nunc Pro Tunc** in probate context – [Freeman v. Wayne County Probate Judge](#), 230 Mich. 455 (1924); [Neville v. Neville](#) 295 Mich. App. 460 (2012), [Young v. Nandi](#) (2011).
 - a. Every court has authority to grant nunc pro tunc
 - b. It is often *necessary to attain justice and should be favored*
 - c. The court has authority to make such determination based on the facts as they existed at the time of filing and granting the original petition.
 - d. The facts at the time favor granting the full guardianship and motion