

ESTATES AND PROTECTED INDIVIDUALS CODE (EXCERPT)
Act 386 of 1998

PART 2
GUARDIANS OF MINORS

700.5201 Appointment and status of guardians of minor.

Sec. 5201. A person may become a minor's guardian by parental appointment or court appointment. The guardianship status continues until terminated, without regard to the location from time to time of the guardian or minor ward.

History: 1998, Act 386, Eff. Apr. 1, 2000.

Popular name: EPIC

700.5202 Parental appointment of guardian for minor.

Sec. 5202. (1) The parent of an unmarried minor may appoint a guardian for the minor by will or by another writing signed by the parent and attested by at least 2 witnesses.

(2) Subject to the right of the minor under section 5203, if both parents are dead or have been adjudged to be legally incapacitated or the surviving parent has no parental rights or has been adjudged to be legally incapacitated, a parental appointment becomes effective when the guardian's acceptance is filed in the court in which the will containing the nomination is probated or, if the nomination is contained in a nontestamentary nominating instrument or the testator who made the nomination is not deceased, when the guardian's acceptance is filed in the court at the place where the minor resides or is present. If both parents are dead, an effective appointment by the parent who died later has priority.

(3) A parental appointment effected by filing the guardian's acceptance under a will probated in the state of the testator's domicile is effective in this state.

(4) Upon acceptance of appointment, the guardian shall give written notice of acceptance to the minor and to the person having the minor's care or the minor's nearest adult relative.

History: 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2000, Act 54, Eff. Apr. 1, 2000;—Am. 2005, Act 204, Imd. Eff. Nov. 10, 2005.

Popular name: EPIC

700.5202a Appointment of guardian in another state as temporary guardian.

Sec. 5202a. (1) If a guardian has not been appointed in this state and a petition for the appointment of a guardian is not pending in this state, a guardian appointed, qualified, and serving in good standing in another state may be appointed immediately as temporary guardian in this state on filing with a court in this state an application for appointment, an authenticated copy of the guardian's appointment in the other state, and an acceptance of appointment. Letters of guardianship for the temporary guardian expire 28 days after the date of appointment.

(2) Within 14 days after appointment as temporary guardian under subsection (1), the guardian shall give notice to all interested persons of his or her appointment and the right to object to the appointment. On filing proof of service of the notice with the court, the temporary guardian shall be appointed full guardian and the court shall issue letters of guardianship accordingly.

(3) If an objection is filed to a guardianship under this section, the guardianship continues unless a court in this state enters an order removing the guardian.

History: Add. 2012, Act 545, Imd. Eff. Jan. 2, 2013.

700.5203 Objection by minor of 14 years or older to parental appointment.

Sec. 5203. A minor 14 years of age or older who is the subject of a parental appointment may prevent an appointment or cause it to terminate by filing with the court in which the nominating instrument is filed a written objection to the appointment before it is accepted or within 28 days after its acceptance. An objection may be withdrawn. An objection does not preclude appointment by the court in a proper proceeding of the parental nominee or another suitable person.

History: 1998, Act 386, Eff. Apr. 1, 2000.

Popular name: EPIC

700.5204 Court appointment of guardian of minor; conditions for appointment.

Sec. 5204. (1) A person interested in the welfare of a minor, or a minor if 14 years of age or older, may petition for the appointment of a guardian for the minor. The court may order the department of health and human services or a court employee or agent to conduct an investigation of the proposed guardianship and file

a written report of the investigation.

(2) The court may appoint a guardian for a minor if any of the following circumstances exist:

(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.

(3) A minor's limited guardian may petition to be appointed a guardian for that minor, except that the petition must not be based on suspension of parental rights by the order that appointed that person the limited guardian for that minor.

(4) A guardian appointed under section 5202 whose appointment is not prevented or nullified under section 5203 has priority over a guardian who may be appointed by the court. The court may proceed with an appointment on a finding that a guardian appointed in a manner described in section 5202 has failed to accept the appointment within 28 days after the notice of the guardianship proceeding.

(5) For the minor ward's welfare, the court may at any time order the minor ward's parents to pay reasonable support and order reasonable parenting time and contact of the minor ward with his or her parents.

History: 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2000, Act 54, Eff. Apr. 1, 2000;—Am. 2005, Act 204, Imd. Eff. Nov. 10, 2005;—Am. 2023, Act 72, Imd. Eff. July 12, 2023.

Popular name: EPIC

700.5205 Court appointment of limited guardian; requirements.

Sec. 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.

(2) A minor's parent or parents who desire to have the court appoint a limited guardian for that minor and the person or persons who desire to be appointed limited guardian for that minor must develop a limited guardianship placement plan. The parties must use a limited guardianship placement plan form prescribed by the state court administrator. A limited guardianship placement plan form must include a notice that informs a parent who is a party to the plan that substantial failure to comply with the plan without good cause may result in the termination of the parent's parental rights under chapter XIIA of 1939 PA 288, MCL 712A.1 to 712A.32. The proposed limited guardianship placement plan shall be attached to the petition requesting the court to appoint a limited guardian. The limited guardianship placement plan shall include provisions concerning all of the following:

(a) The reason the parent or parents are requesting the court to appoint a limited guardian for the minor.

(b) Parenting time and contact with the minor by his or her parent or parents sufficient to maintain a parent and child relationship.

(c) The duration of the limited guardianship.

(d) Financial support for the minor.

(e) Any other provisions that the parties agree to include in the plan.

History: 1998, Act 386, Eff. Apr. 1, 2000.

Popular name: EPIC

700.5206 Review modification of plan; powers and duties of limited guardian.

Sec. 5206. (1) The court shall review a proposed limited guardianship placement plan filed with the court under section 5205 and shall do 1 of the following:

- (a) Approve the proposed plan.
- (b) Disapprove the proposed plan.
- (c) On its own motion, modify a proposed plan and approve it as modified, if the parties agree to the modification. The modified plan must be filed with the court.

(2) A limited guardianship placement plan that has been approved by the court may be modified on agreement of the parties and approval of the court. A modified limited guardianship placement plan must be filed with the court.

(3) The voluntary suspension of parental rights under section 5205 does not prevent the parent or parents from filing a petition to terminate the limited guardianship at any time as provided in section 5208. Appointment of a limited guardian under this section is a continuing appointment.

(4) A limited guardian appointed under this section has all of the powers and duties enumerated in section 5215 except that a minor's limited guardian shall not consent to adoption of the minor ward or to the release of the minor ward for adoption.

History: 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2023, Act 72, Imd. Eff. July 12, 2023.

Popular name: EPIC

700.5207 Review of guardianship of minor.

Sec. 5207. (1) The court may review a guardianship for a minor as it considers necessary and shall review a guardianship annually if the minor is under 6 years of age. In conducting the review, the court shall consider all of the following factors:

- (a) The parent's and guardian's compliance with either of the following, as applicable:

- (i) A limited guardianship placement plan.

- (ii) A court-structured plan under subsection (3)(b)(ii)(B) or section 5209(2)(b)(ii).

- (b) Whether the guardian has adequately provided for the minor's welfare.

- (c) The necessity of continuing the guardianship.

- (d) The guardian's willingness and ability to continue to provide for the minor's welfare.

- (e) The effect upon the minor's welfare if the guardianship is continued.

- (f) Any other factor that the court considers relevant to the minor's welfare.

(2) The court may order the family independence agency or a court employee or agent to conduct an investigation and file a written report of the investigation regarding the factors listed in subsection (1).

(3) Upon completion of a guardianship review, the court may do either of the following:

- (a) Continue the guardianship.

- (b) Schedule and conduct a hearing on the guardianship's status and do any of the following:

- (i) If the guardianship is a limited guardianship, do either of the following:

- (A) Continue the limited guardianship.

- (B) Order the parties to modify the limited guardianship placement plan as a condition to continuing the limited guardianship.

- (ii) If the guardianship was established under section 5204, do either of the following:

- (A) Continue the guardianship.

- (B) Order the parties to follow a court-structured plan designed to resolve the conditions identified at the review hearing.

- (iii) Take an action described in section 5209(2).

History: 1998, Act 386, Eff. Apr. 1, 2000.

Popular name: EPIC

700.5208 Petition to terminate guardianship of minor.

Sec. 5208. (1) A minor's parent or parents may petition the court to terminate a guardianship for the minor as follows:

- (a) If the guardianship is a limited guardianship, the parents or the sole parent with a right to custody of the minor.

- (b) If the guardianship was established under section 5204, the minor's parent or parents.

(2) If a petition is filed to terminate a guardianship under this section, the court may do 1 or more of the following:

- (a) Order the family independence agency or a court employee or agent to conduct an investigation and file a written report of the investigation regarding the best interests of the minor or give testimony concerning the investigation.

- (b) Utilize the community resources in behavioral sciences and other professions in the investigation and study of the best interests of the minor and consider their recommendations for the disposition of the petition.

- (c) Appoint a guardian ad litem or attorney to represent the minor.
- (d) Take any other action considered necessary in a particular case.
- (3) This section and section 5209 apply to all guardianships established before, on, or after the effective date of this section.

History: 1998, Act 386, Eff. Apr. 1, 2000.

Popular name: EPIC

700.5209 Court action on petition to terminate guardianship of minor.

Sec. 5209. (1) After notice and hearing on a petition under section 5208 to terminate a limited guardianship, the court shall terminate the limited guardianship if it determines that the minor's parent or parents have substantially complied with the limited guardianship placement plan. The court may enter orders to facilitate the minor's reintegration into the home of the parent or parents for a period of up to 6 months before the termination.

(2) For a petition to terminate a guardianship in which subsection (1) does not apply, after notice and hearing, the court may do any of the following:

(a) Terminate the guardianship if the court determines that it is in the best interests of the minor, and do any of the following:

(i) Enter orders to facilitate the minor's reintegration into the parent's home for a period of up to 6 months before the termination.

(ii) Order the family independence agency to supervise the transition period when the minor is being reintegrated into his or her parent's home.

(iii) Order the family independence agency to provide services to facilitate the minor's reintegration into his or her parent's home.

(b) Continue the guardianship for not more than 1 year after the hearing date if the court determines that it is in the best interests of the minor, and do any of the following:

(i) If the guardianship is a limited guardianship, order the parent or parents to comply with 1 of the following:

(A) The limited guardianship placement plan.

(B) A court-modified limited guardianship placement plan.

(C) If the limited guardianship was established before December 20, 1990, a court-structured plan that enables the minor to return to the home of his or her parent or parents.

(ii) If the guardianship is ordered under section 5204, order the parent or parents to follow a court-structured plan that enables the minor to return to the home of his or her parent or parents.

(iii) If a guardianship is continued under subparagraph (i) or (ii), schedule and conduct a hearing to review the guardianship before the expiration of the period of time that the guardianship is continued and either terminate the guardianship or limited guardianship or proceed under subdivision (c) or (d).

(c) If the minor resides with the guardian or limited guardian for not less than 1 year and if the court finds that the minor's parent or parents have failed to provide the minor with parental care, love, guidance, and attention appropriate to the child's age and individual needs resulting in a substantial disruption of the parent-child relationship, continue the guardianship if it is established by clear and convincing evidence that the continuation would serve the best interests of the minor.

(d) Appoint an attorney to represent the minor or refer the matter to the family independence agency. The attorney or the family independence agency may file a complaint on behalf of the minor requesting the family division of the circuit court to take jurisdiction of the minor under section 2(b) of chapter XIII A of 1939 PA 288, MCL 712A.2.

History: 1998, Act 386, Eff. Apr. 1, 2000.

Popular name: EPIC

700.5210 Order for termination of guardianship of minor.

Sec. 5210. Upon receipt of a copy of a judgment or an order of disposition in a child custody action regarding a minor that is sent to the court as provided in section 6b of the child custody act of 1970, 1970 PA 91, MCL 722.26b, the court shall terminate the guardianship or limited guardianship for that minor.

History: 1998, Act 386, Eff. Apr. 1, 2000.

Popular name: EPIC

700.5211 Venue.

Sec. 5211. The venue for a guardianship proceeding for a minor is in the place where the minor resides or is present at the time the proceeding is commenced.

History: 1998, Act 386, Eff. Apr. 1, 2000.

Popular name: EPIC

700.5212 Court appointment of guardian of minor; qualifications; priority of minor's nominee.

Sec. 5212. The court may appoint as guardian a person whose appointment serves the minor's welfare, including a professional guardian described in section 5106. If the minor is 14 years of age or older, the court shall appoint a person nominated by the minor, unless the court finds the appointment contrary to the minor's welfare.

History: 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2000, Act 463, Eff. June 1, 2001.

Popular name: EPIC

700.5213 Procedure for court appointment of guardian, temporary guardian, or lawyer-guardian ad litem for minor.

Sec. 5213. (1) The petitioner shall give notice of the time and place of hearing of a petition for the appointment of a minor's guardian to each of the following:

- (a) The minor, if 14 years of age or older.
- (b) The person who had the principal care and custody of the minor during the 63 days preceding the date of the petition.

(c) Each living parent of the minor or, if neither of them is living, the adult nearest of kin to the minor.

(2) Upon hearing, if the court finds that a qualified person seeks appointment, venue is proper, the required notices have been given, the requirements of section 5204 or of sections 5205 and 5206 are satisfied, and the minor's welfare will be served by the requested appointment, the court shall make the appointment. In other cases, the court may dismiss the proceeding or make another disposition of the matter that will serve the minor's welfare.

(3) If necessary, the court may appoint a temporary guardian with the status of an ordinary guardian of a minor, but the temporary guardian's authority shall not exceed 6 months.

(4) If, at any time in the proceeding, the court determines that the minor's interests are or may be inadequately represented, the court may appoint a lawyer-guardian ad litem to represent the minor, giving a consideration to the preference of the minor if the minor is 14 years of age or older.

(5) A lawyer-guardian ad litem appointed under this act represents the child and has powers and duties in relation to that representation as set forth in section 17d of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.17d. All provisions of section 17d of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.17d, apply to a lawyer-guardian ad litem appointed under this act. In addition, both of the following apply under this act:

(a) In a proceeding in which a lawyer-guardian ad litem represents a child, he or she may file a written report and recommendation. The court may read the report and recommendation. The court shall not, however, admit the report and recommendation into evidence unless all parties stipulate the admission. The parties may make use of the report and recommendation for purposes of a settlement conference.

(b) After a determination of ability to pay, the court may assess all or part of the costs and reasonable fees of a lawyer-guardian ad litem against 1 or more of the parties involved in the proceedings or against the money allocated from marriage license fees for family counseling services under section 3 of 1887 PA 128, MCL 551.103. A lawyer-guardian ad litem shall not be paid a fee unless the court first reviews and approves the fee.

(6) To assist the court in determining a child's best interest, the court may appoint a guardian ad litem for a child involved in a proceeding under this section.

History: 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2000, Act 54, Eff. Apr. 1, 2000.

Popular name: EPIC

700.5214 Consent to service by acceptance of appointment; notice.

Sec. 5214. By accepting a parental or court appointment as guardian, a guardian submits personally to the court's jurisdiction in a proceeding relating to the guardianship that may be instituted by an interested person. The petitioner shall cause notice of a proceeding to be delivered to the guardian or mailed to the guardian by first-class mail at the guardian's address listed in the court records and to the address then known to the petitioner. Letters of guardianship must indicate whether the guardian was appointed by court order or parental nomination.

History: 1998, Act 386, Eff. Apr. 1, 2000.

Popular name: EPIC

700.5215 Powers and duties of guardian of minor.

Sec. 5215. A minor's guardian has the powers and responsibilities of a parent who is not deprived of custody of the parent's minor and unemancipated child, except that a guardian is not legally obligated to provide for the ward from the guardian's own money and is not liable to third persons because of the parental relationship for the ward's acts. A guardian has all of the following powers and duties:

(a) The guardian shall take reasonable care of a ward's personal effects and commence a protective proceeding if necessary to protect the ward's other property. If a guardian commences a protective proceeding because the guardian believes that it is in the ward's best interest to sell or otherwise dispose of the ward's real property or interest in real property, the court may appoint the guardian as special conservator and authorize the special conservator to proceed under section 5423(3). A guardian shall not otherwise sell the ward's real property or interest in real property.

(b) The guardian may receive money payable for the ward's support to the ward's parent, guardian, or custodian under the terms of a statutory benefit or insurance system, or a private contract, devise, trust, conservatorship, or custodianship. The guardian may receive the ward's money or property paid or delivered under section 5102. Money or property received under section 5102 must be applied to the ward's current needs for support, care, and education. The guardian shall exercise due care to conserve any excess for the ward's future needs unless a conservator is appointed for the ward's estate, in which case the excess must be paid over at least annually to the conservator. The guardian shall not use that money or property for compensation for the guardian's services except as approved by court order or as determined by an appointed conservator other than the guardian. A guardian may institute a proceeding to compel a person's performance of a duty to support the ward or to pay money for the ward's welfare.

(c) The guardian shall facilitate the ward's education and social or other activities, and shall authorize medical or other professional care, treatment, or advice. A guardian is not liable because of this consent for injury to the ward resulting from the negligence or acts of third persons unless it would be illegal for a parent to have consented.

(d) Subject to the conditions and restrictions of chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, a guardian may consent to adoption of a minor ward or to the release of a minor ward for adoption.

(e) A guardian must report the condition of the ward and of the ward's estate that is subject to the guardian's possession or control as ordered by the court on petition of a person interested in the minor's welfare or as required by court rule. The report must detail the condition of the ward, medical or mental health treatment or care to which the ward was subjected, and what reason, if any, exists for the continuation of the guardianship.

(f) Within 14 days after a change in the ward's place of residence, the guardian shall give to the court notice of the ward's new address.

(g) A guardian may execute a do-not-resuscitate order on behalf of the ward as provided in section 3a of the Michigan do-not-resuscitate procedure act, 1996 PA 193, MCL 333.1053a.

History: 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2000, Act 469, Eff. June 1, 2001;—Am. 2020, Act 365, Eff. Mar. 24, 2021;—Am. 2023, Act 72, Imd. Eff. July 12, 2023.

Popular name: EPIC

700.5216 Compensation; claim for burial expense.

Sec. 5216. (1) A guardian is entitled to reasonable compensation for services as guardian and to reimbursement for room, board, and clothing personally provided to the ward, but only as approved by court order.

(2) If a minor dies while under guardianship and a conservator has not been appointed for the minor's estate and if the guardian has possession of any money of the deceased minor, upon petition of the guardian and with or without notice, the court may hear a claim for burial expenses or another claim as the court considers advisable. Upon hearing the claim, the court may enter an order allowing or disallowing the claim or a part of it and may provide in an order of allowance that the claim or a part of it be paid immediately if the payment can be made without injury or serious inconvenience to the minor's estate.

History: 1998, Act 386, Eff. Apr. 1, 2000.

Popular name: EPIC

700.5217 Termination of appointment of guardian.

Sec. 5217. A guardian's authority and responsibility terminate upon the guardian's death, resignation, or removal or upon the minor's death, adoption, marriage, or attainment of majority. However, a termination

does not affect the guardian's liability for prior acts or the obligation to account for the ward's money and property. The guardian's resignation does not terminate the guardianship until it is approved by the court. A parental appointment under an unprobated or informally probated will terminates if the will is later denied probate in a formal proceeding.

History: 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2005, Act 204, Imd. Eff. Nov. 10, 2005.

Popular name: EPIC

700.5218 Proceedings subsequent to appointment; venue.

Sec. 5218. (1) The court at the place where the ward resides has concurrent jurisdiction over resignation, removal, accounting, or another proceeding relating to the guardianship with the court that appointed the guardian or in which acceptance of a parental appointment was filed.

(2) If the court located where the ward resides is neither the appointing court nor the court in which acceptance of appointment is filed, the court in which a proceeding subsequent to appointment is commenced in all appropriate cases shall notify the other court, in this or another state, and after consultation with that court, shall determine whether to retain jurisdiction or transfer the proceeding to the other court, whichever will serve the ward's welfare. A copy of an order accepting a resignation or removing a guardian shall be sent to the appointing court or the court in which acceptance of appointment is filed.

History: 1998, Act 386, Eff. Apr. 1, 2000.

Popular name: EPIC

700.5219 Resignation, removal, and other post-appointment proceedings.

Sec. 5219. (1) A person interested in a ward's welfare or, if 14 years of age or older, the ward may petition for the removal of a guardian on the ground that removal would serve the ward's welfare or for another order that would serve the ward's welfare. A guardian may petition for permission to resign. A petition for removal or for permission to resign may, but need not, include a request for a successor guardian's appointment.

(2) Notice of a hearing on a petition for an order after a guardian's appointment must be given to the ward, the guardian, and any other person as ordered by the court or as provided by court rule.

(3) After notice and hearing on a petition for removal or for permission to resign, the court may terminate the guardianship and make further order that may be appropriate.

(4) If the court determines at any time in a proceeding that the ward's interest is or may be inadequately represented, the court may appoint a lawyer-guardian ad litem to represent the minor, giving consideration to the preference of the minor if the minor is 14 years of age or older.

History: 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2000, Act 54, Eff. Apr. 1, 2000.

Popular name: EPIC