TEMPORARY ADULT GUARIDANSHIPS

JENNIFER WARWICK, PRESQUE ISLE COUNTY
JENNIFER PARMALEE, WAYNE COUNTY

TEMPORARY ADULT GUARDIANSHIPS

MCR 5.403(A)&(C) provide:

(A) Limitation. The court may appoint a temporary guardian in the course of a proceeding for permanent guardianship or pursuant to an application to appoint a guardian serving in another state to serve as guardian in this state.

…

(C) Temporary Guardian for Incapacitated Individual Where no Current Appointment; Guardian Ad Litem. A petition for a temporary guardian for an alleged incapacitated individual shall specify in detail the emergency situation requiring the temporary guardianship. For the purpose of an emergency hearing, the court shall appoint a guardian ad litem unless such appointment would cause delay and the alleged incapacitated individual would likely suffer serious harm if immediate action is not taken. The duties of the guardian ad litem are to visit the alleged incapacitated individual, report to the court and take such other action as directed by the court. The requirement of MCL 700.5312(1) that the court hold the fully noticed hearing within 28 days applies only when the court grants temporary relief.

TEMPORARY ADULT GUARDIANSHIPS

MCL 700.5312 provides:

(1) If an individual does not have a guardian, an emergency exists, and no other person appears to have authority to act in the circumstances, the court shall provide notice to the individual alleged to be incapacitated and shall hold a hearing. Upon a showing that the individual is an incapacitated individual, the court may exercise the power of a guardian, or appoint a temporary guardian with only the powers and for the period of time as ordered by the court. A hearing with notice as provided in section 5311 shall be held within 28 days after the court has acted under this subsection.

(2) If an appointed guardian is not effectively performing the guardian's duties and the court further finds that the legally incapacitated individual's welfare requires immediate action, the court may appoint, with or without notice, a temporary guardian for the legally incapacitated individual for a specified period not to exceed 6 months.

(3) A temporary guardian is entitled to the care and custody of the ward, and the authority of a permanent guardian previously appointed by the court is suspended as long as a temporary guardian has authority. A temporary guardian may be removed at any time. A temporary guardian shall make reports as the court requires. In other respects, the provisions of this act concerning guardians apply to temporary guardians.

TEMPS IN ADULT GUARDIANSHIPS

What does MCL 700.5312(1) mean?

To appoint a temporary guardian when there is no existing guardian, there must be:

- An emergency and
- No one with authority to act.

Note: If there is a patient advocate who is acting inconsistent with the terms of the POA or with the ward's best interests, a temporary guardian cannot be appointed. (This is different than under MCL 700.5306.)

In re Guardianship of JEK, No 364111 (Mich Ct App Ma7 18, 2023) Unpublished

PC625

Petition for Appointment of Guardian of Incapacitated Individual (7/24) **Case No.** _____

Page 3 of 3

12. None of the persons named above are under any legal incapacity except _____

_____ .

Name, legal incapacity, and representative of the person, if any

13. **I REQUEST** that the court determine the individual is an incapacitated individual and

☐ appoint _____ (Name), _____ (Address), _____ (City, state, zip), _____ (Telephone no.)

who has priority as _____ (Priority relationship),

☐ full guardian with all powers provided by statute.

☐ limited guardian with the following powers: _____

_____

☐ designate _____ (Name), _____ (Address), _____ (City, state, zip), _____ (Telephone no.)

as standby guardian.

14. No other person appears to have authority to act in the circumstances. I request that a temporary guardian be appointed pending a hearing on this petition because of the following emergency:

***THIS IS THE SECTION OF THE PETITION WHERE EMERGENCY HEARING REQUESTS WOULD NORMALLY BE COMPLETED.

I declare under the penalties of perjury that this petition has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

TEMP ADULT GUARDIANSHIP IN PRESQUE ISLE COUNTY

- Request for temp GA is not usually filed separately from initial guardianship request
  - If requested separately, charge an additional $20 filing fee
- Customer is flagged that an emergency is requested
  - Court staff takes petition to judge and judge determines whether an emergency exists, if granted, then GAL appointed and customer contacted to schedule emergency hearing
  - GAL participates via Zoom or in-person, with no written report but has met with ward, and notified ward of rights
  - Typically heard within 3 days although could be as soon as within 24 hours, based upon GAL scheduling and urgency

TEMP ADULT GUARDIANSHIP IN PRESQUE ISLE COUNTY

- Circumstances that warrant an emergency hearing – (placement not usually an emergency, but could be); refusal of ward/family to allow emergency medical treatment, APS involvement; hospital request where DPOA not acting and hospice decisions needed
- Where circumstances are not found to warrant an emergency hearing, judge may move full hearing to an earlier docket

TEMP ADULT GUARDIANSHIP IN PRESQUE ISLE COUNTY

- If appointed, full hearing is held within 28 days of the appointment
- Expiration of 28 days included on order; at the full hearing, if not able to be decided, temp may be extended
- Usually include restriction that ward cannot be removed from the state without prior order of the court – no other restrictions
- GAL is continued and provides written report for full hearing
- Not all GALs are attorneys, but in the circumstances of an emergency request, court's usual procedure (but not requirement) is to appoint a GAL who is an attorney

Approved, SCAO

JIS CODE: LOG

STATE OF MICHIGAN PROBATE COURT COUNTY OF PRESQUE ISLE	LETTERS OF GUARDIANSHIP	FILE NO. 25-12345-GA

In the matter of Jane Doe

TO:

Name and address
John Doe
1842 Pine Lantern Lane
Elmsford, MI 48247

Guardian's telephone no.
(989) 555-0198

1. You have been appointed ☐ by will or other witnessed writing ☑ by the court as temporary
guardian of the individual named above.
Type of guardian (full, limited, temporary, etc.)

2. Having filed an acceptance of appointment, you have the care, custody, and control of that individual:

☑ a. together with all authority and responsibilities granted and imposed by law.

☑ b. except as follows: The ward shall not be removed from the State without prior order of the Court.

☐ c. as to the following powers and responsibilities only:

☑ 3. These letters of guardianship expire on June 11, 2025 .
Date

05/14/2025
Date

Judge Honorable Kimberly S. Gildner

P64331
Bar no.

TEMP ADULT GUARDIANSHIP IN WAYNE COUNTY

- Request for temp GA is not usually filed separately from initial guardianship request
  - If requested separately, no additional fee
- Case is flagged that an emergency is requested
  - Emergency Hearing request form routes to courtroom staff and judge determines whether an emergency exists, if granted, then GAL appointed, and customer contacted with emergency hearing date
  - GAL participates via Zoom, with no written report but has met with ward, and notified ward of rights
  - Typically heard within 3 days

WCPC96 5/6/2025 12:35 PM (i)

Code: EHR

STATE OF MICHIGAN PROBATE COURT COUNTY OF WAYNE	REQUEST FOR ☐ EMERGENCY HEARING ☐ ADJOURNMENT OF HEARING ☐ WITHDRAWAL OF PETITION	CASE NO. and JUDGE

Court address
1305 Coleman A Young Municipal Center, 2 Woodward Ave, Detroit, MI 48226

Court telephone no.
(313) 224-5706

Estate of _____
First, middle, and last name

1. I am interested in this matter and make this request as: (state interest/relationship) _____

2. This request specifically relates to the pending petition or motion titled: _____

3. No objections or responsive pleadings to this petition/motion have been filed with the court as of this date.

4. This petition/motion is currently scheduled for hearing on: _____
(Date and Time of hearing:)

5. I am requesting the court
   - ☐ schedule an emergency hearing
   - ☐ adjourn the hearing
   - ☐ accept the withdrawal and cancel the hearing

   regarding the above petition for the following reasons:

_____

_____

Date

Attorney signature

Name (type or print) Bar no.

Address

City, state, zip Telephone no.

Requestor's signature

Name (type or print)

Address

City, state, zip Telephone no.

TEMP ADULT GUARDIANSHIP IN WAYNE COUNTY

- Circumstances that warrant an emergency hearing –life-threatening emergency medical treatment or emergency housing/placement issues
- Where circumstances are not found to warrant an emergency hearing, parties told the matter will be heard when originally scheduled (full hearing)
- Parties can request an earlier date for the full hearing (the court's wcpc96 is also used for this purpose)

(Refer to www.wcpc.us
WCPC - Emergency Filings and
Request to adjourn/reschedule hearing or withdraw a petition)

How to Submit Your Emergency Filings

Filing Details
Protected Personal Identifying Information (PPII)
Processing of Filing
How to Submit your Non-Emergency Filing
How to Submit your Emergency Filing
Publication
Filing/Probate Fees
Fee Waiver Request
Working Hours
Hearing Information

If you believe your situation is an emergency, please review these guidelines and instructions:

In limited circumstances, the court may consider your petition an "emergency" and schedule a hearing within a few days of filing the petition, rather than the standard timeframe of 3-6 weeks. In most situations, the emergency hearing resolves the matter only temporarily and a full hearing will still need to be held. For example, a guardian can be appointed on a temporary basis only until the full hearing so that the interested persons can be notified and to allow time for the guardian ad litem to report to the court.

To submit your emergency request

1. Complete wcpc96 Request for Emergency Hearing. This form may also be used to request an emergency hearing after the related petition has already been filed with the court. This form does not apply to MI case types. Additionally, this form does not apply to any document filed in any other case type for which the document(s) filed does not require or have a hearing.
   Video instructions on how to complete wcpc96.
2. **Complete the applicable petition and related required documents (if not already filed with the court).** The type of Petition and number of forms required will depend on what type of case you are filing. Click

Filing Details

Protected Personal Identifying Information (PPII)

Processing of Filing

How to Submit your Non-Emergency Filing

How to Submit your Emergency Filing

Publication

Filing/Probate Fees

Fee Waiver Request

Working Hours

Hearing Information

How to Request Letters of Authority

ImageAccess

Electronic Certified Copies

Publication and/or Notice to Unknown Creditors

Self-Help Resources

on the Information tab above for specific case types. All probate court forms are available to download here.

3. Submit for filing the completed forms. If submitting via email or fax (the fastest and most convenient method), send the filing to the applicable department according to the court's Where Do I File chart: wheredoifile.
    a. **Email:** If you file submit your filing by email, you must attach your filings to the email in one single PDF document. **Include "emergency" in your subject line and note the request in the Petitioner Filing Coversheet.** The court cannot accept a picture of the document. There are apps available to convert picture images to PDF. Per MCR 1.109(E)(4)(a), the court can accept a typed signature in the following format: /s/your name. All paperwork must be completed (signed) and legible.
    b. **Fax:** If you submit your filing by fax, you must submit one complete document in each fax transmission (do not send separate pages in separate transmissions). All paperwork must be completed (signed) and legible.
    c. **Onsite**: If you are unable to submit the filing electronically via email or fax, you may choose to come onsite to the court to submit the documents. Be sure to check the court's customer service hours and calendar of court closures before coming to the courthouse – see: WCPC - Working Hours. Note, there is added time when filing onsite as the paper submission must be converted to an electronic submission as all files at Wayne County Probate Court are electronic.
4. Your emergency petition will be processed as quickly as possible.
5. If your petition is not deemed an emergency by the court, you will receive a hearing date within 3-6 weeks after you have paid your filing fee, or your fee waiver has been approved. If the court determines your request should be set for emergency hearing, a hearing date will be provided to you by email (so long as you provide one).
6. You may monitor the status of your filing by going to Case Access and searching the case number or name. Your emergency request will be noted in the case record as an EHR Emergency Hearing request. If your emergency request is not showing on Case Access within 2 business days of submission, you

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Self-Help Resources

may contact the court via email at courtroomfile@wcpc.us to ensure it to ensure it has been received.

7. Follow the instructions here to pay your fee online prior to the hearing; the fee waiver request form (MC20) may be submitted with your petition.
8. All hearings are being held via Zoom unless otherwise noted. If you do not attend the hearing, your petition may be dismissed. Zoom hearing information is available here.
9. Most emergency hearings can only result in temporary orders. A full hearing will be scheduled, and you will be provided with another hearing date and time. You may be required to complete and file additional forms (such as Acceptance of Appointment (PC571) or Proof of Service (PC564) and serve notice on the interested persons.

Examples of Emergency Petitions and links to forms:

Petitions for Immediate Funeral\Burial Arrangements pursuant to MCL 700.3206 and 700.3614.

- See: Petition and Order PC586

Guardianships Involving Life-Threatening Medical Emergencies pursuant to MCL 700.5312 or MCL 330.1607

- For an adult with a developmental disability, see: WCPC - Developmental Disability
- For an adult, see: WCPC - Filing Procedures - Adult Guardianships
- For a minor, see: WCPC - Full Minor Guardianships

Conservatorships with Immediate Pending Evictions/Foreclosures/Shut Off Notices pursuant to MCL 700.5407

- See: WCPC - Filing Procedures-Adult Conservatorships

Estates Where Immediate Access to Residence is Necessary under MCL 700.3614.

- See: WCPC - Decedent's Estate - Petition

Request to adjourn/reschedule hearing or withdraw a petition

- How to Start a Wayne County Probate Case
- How to Administer a Wayne County Probate Case
- How to Complete Forms
- Directions for Giving Notice of Hearing
- How to Close a Wayne County Probate Case
- **Probate Frequently Asked Questions (FAQ's)**
- Guardianship and Estates Ombudsman
- List of Court Approved Mediators
- Administrative Information
- Request For Accommodations - ADA

Request to adjourn or reschedule a hearing

To request the adjournment or rescheduling of a hearing, submit form wcpc96 to courtroomfile@wcpc.us. If you are requesting an emergency hearing, this form is also used and see: WCPC - Emergency Filings for further instructions.

Video instructions on how to complete wcpc96.

Additional situations to use this form:

This form should also be used if you are requesting the rescheduling of a hearing for:

a. Multiple petitions filed in the same case, for example, a request to reschedule a petition to allow account together with a petition and order to use funds that are both pending in the same case;
b. A petition filed in a companion matter to be heard together with the other case (for example, a request to reschedule a hearing on a petition for the appointment of a guardian for one child, to the same date and time as the hearing on a petition for the appointment of a guardian for a sibling of the child.

Request to withdraw a petition

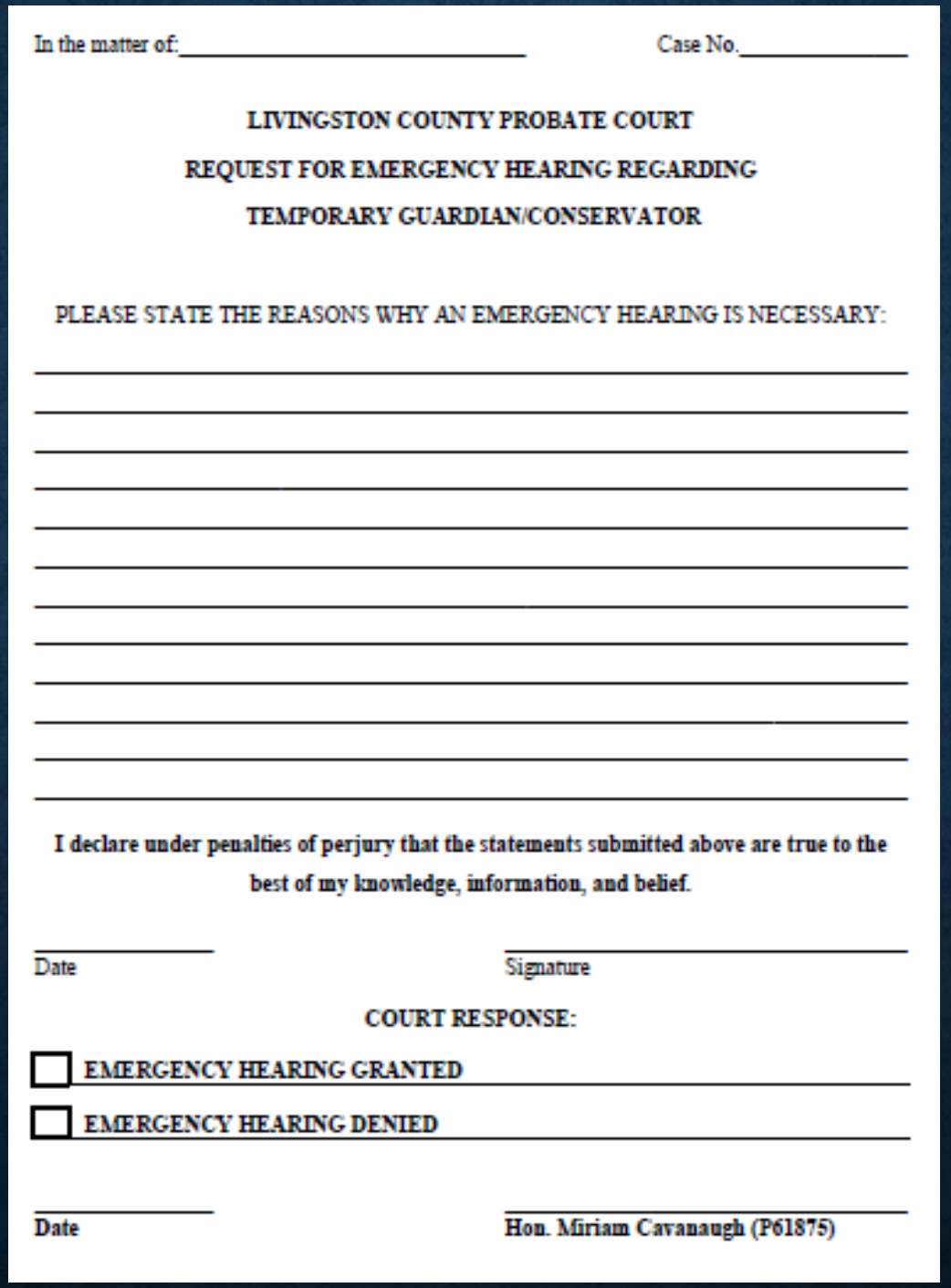
To request the withdrawal of a petition or motion, submit form wcpc96 to courtroomfile@wcpc.us. Please note, refunds of filing fees cannot be given for pleadings that have been accepted for filing by the court.

Video instructions on how to complete wcpc96 (coming soon)

TEMP ADULT GUARDIANSHIP IN WAYNE COUNTY

- If appointed, full hearing is usually held within 28 days of the appointment (it is scheduled prior to determination of emergency appointment)
- Expiration using the next hearing date is included on order and expiration is noted on the register of actions; at the full hearing, if not able to be decided, temp may be extended
- Usually include powers specific to needs of the individual (for example, medical and placement decisions only) and restriction that ward cannot be removed from the state without prior order of the court
- GAL is continued and provides written report for full hearing
- All GALs are attorneys

Other Counties Emergency Hearing Request Forms



In the matter of:_____ Case No._____

LIVINGSTON COUNTY PROBATE COURT

REQUEST FOR EMERGENCY HEARING REGARDING

TEMPORARY GUARDIAN/CONSERVATOR

PLEASE STATE THE REASONS WHY AN EMERGENCY HEARING IS NECESSARY:

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

I declare under penalties of perjury that the statements submitted above are true to the best of my knowledge, information, and belief.

_____ _____

Date Signature

COURT RESPONSE:

☐ **EMERGENCY HEARING GRANTED**

☐ **EMERGENCY HEARING DENIED**

_____ _____

Date **Hon. Miriam Cavanaugh (P61875)**

TEMPORARY MINOR GUARDIANSHIPS

MCR 5.403(A),(B), & (D) provide:

(A) Limitation. The court may appoint a temporary guardian in the course of a proceeding for permanent guardianship or pursuant to an application to appoint a guardian serving in another state to serve as guardian in this state.

(B) Notice of Hearing, Minor. For good cause stated on the record and included in the order, the court may shorten the period for notice of hearing or may dispense with notice of a hearing for the appointment of a temporary guardian of a minor, except that the minor shall always receive notice if the minor is 14 years of age or older. If a temporary guardian is appointed following an ex parte hearing in a case in which the notice period was shortened or eliminated, the court shall send notice of the appointment to all interested persons. The notice shall inform the interested persons about their right to object to the appointment, the process for objecting, and the date of the next hearing, if any. If an interested person objects to the appointment of a temporary guardian following an ex parte hearing in a case in which the notice period was shortened or eliminated, the court shall hold a hearing on the objection within 14 days from the date the objection is filed.

TEMPORARY MINOR GUARDIANSHIPS

MCR 5.403(A),(B), & (D) provide:

(D) Temporary Guardian for Minor.

(1) *Before Appointment of Guardian.* If necessary during proceedings for the appointment of a guardian for a minor, the court may appoint a temporary guardian after a hearing at which testimony is taken. The petition for a temporary guardian shall specify in detail the conditions requiring a temporary guardianship. Where a petition for appointment of a limited guardian has been filed, the court, before the appointment of a temporary guardian, shall take into consideration the limited guardianship placement plan in determining the powers and duties of the parties during the temporary guardianship.

(2) *When Guardian Previously Appointed.* If it comes to the attention of the court that a guardian of a minor is not properly performing the duties of a guardian, the court, after a hearing at which testimony is taken, may appoint a temporary guardian for a period not to exceed 6 months. The temporary guardian shall have the authority of the previously appointed guardian whose powers are suspended during the term of the temporary guardianship. The temporary guardian shall determine whether a petition to remove the guardian should be filed. If such a petition is not filed, the temporary guardian shall report to court with recommendations for action that the court should take in order to protect the minor upon expiration of the term of the temporary guardian. The report shall be filed within 1 month of the date of the expiration of the temporary guardianship.

TEMPORARY GUARDIANSHIPS (MINORS)

MCL 700.5213(3) provides:

(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.

TEMPORARY GUARDIANSHIPS (DEVELOPMENTALLY DISABLED)

MCL 330.1607 provides:

(1) A court, upon filing of a petition for guardianship under this chapter and before the appointment of a plenary or partial guardian, or pending an appeal or action in relation to the appointment, under emergency circumstances and if necessary for the welfare or protection of an individual with a developmental disability, may temporarily exercise the powers of a guardian over an individual with a developmental disability, or may appoint a temporary guardian whose powers and duties shall be specifically enumerated by court order.

(2) If the court, under subsection (1), exercises the powers of a guardian or appoints a temporary guardian before the appointment of a plenary or partial guardian, a hearing on the petition for guardianship shall be held within 14 days, or at a time fixed under section 614, whichever is earlier.

(3) If the court, under subsection (1), exercises the powers of a guardian or appoints a temporary guardian pending an appeal or action in relation to the appointment of a guardian under this chapter, a hearing shall be held within 14 days to determine whether the individual is in need of the services of a guardian for the individual's welfare or protection during the pendency of the appeal or action. If the court determines by clear and convincing evidence that a need exists, the court may appoint a temporary guardian whose powers and duties shall be specifically enumerated by court order and whose authority shall expire upon resolution of the appeal or action.

(4) At a hearing held under either subsection (2) or (3), a respondent shall have all the rights and privileges otherwise available to an individual subject to proceedings under this chapter.

DISCUSSION (DD REPORTS?) AND Q&A