

PROBATE COURT: Jurisdiction and Venue
(MCL 712b.7(6) & MCR 5.402(4): Indian custodian, Indian child’s tribe, and the Indian child have right to intervene at any point in the proceeding.)

Petition for Guardianship of a Minor filed; \$150 filing fee
Petition must document all efforts made to determine child’s membership/eligibility for membership in an Indian tribe.

Investigation: Upon filing of the petition, the court may appoint a L-GAL to represent the interests of the minor and may order DHS/court employee/agent to conduct investigation.

If investigation conducted, a written report of the investigation must be filed pursuant to MCL 700.5204(1) no later than 7 days before hearing. Report must contain information required in MCL 712B.25(1). If it is unknown whether minor is an Indian child, investigation must include an inquiry into Indian tribal membership.

Voluntary Guardianship:
If both parents intend to execute a consent...

Consent by both parents must be executed on SCAO form, recorded before a judge, and accompanied by the presiding judge’s certificate that consent was fully explained and understood and fully understood in English or in interpreted into language understood by parent or custodian.
Note: Any consent given before, or within 10 days after, the birth of the Indian child is not valid.

The court must conduct hearing on petition for voluntary guardianship. Court must determine:

- if tribe has exclusive jurisdiction
- valid consent executed by both parents or the Indian custodian
- if it is in the Indian child’s best interest to appoint a guardian
- if a L-GAL should be appointed to represent the Indian child

Consent may be withdrawn at any time by sending written notice to court. Upon notice, the court must immediately enter an ex parte order terminating guardianship and returning Indian child to parent/custodian. However, if both parents executed consent, both parents must withdraw consent or court must conduct a hearing within 21 days to determine whether to terminate guardianship.

If Indian child discovered after guardianship ordered, the court must provide notice of the guardianship on SCAO form (PC 678) to persons pursuant to MCR 5.109 and MCR 5.125. Copy of notice must be mailed to guardian via first-class mail.