STATE BAR OF MICHIGAN

THE LAW

for

Minors
Parents
Counselors

Contents

THE LAW for Minors, Parents, and Counselors

Introduction

Laws are made to protect the rights of parents and their children. Lawyers and law students who are members of the Child Advocacy Law Clinic, Michigan Child Welfare Law Resource Center, and Michigan Poverty Law Program-Clinic at the University of Michigan Law School in Ann Arbor have assembled information on family law for this website.

Please remember, this information cannot be substituted for the advice of an attorney or for talking with other qualified people who may be able to help you with the problems you are having. But it can give you information to begin those conversations.

Section One: Decisions—What you need to know

As a teenager, you have rights. Learn what you can and cannot do when it comes to medical issues, mental health issues, adoption, guardianship, emancipation, abortion, and changing your name.

Overview of your rights

You become an adult when you turn 18. However, at 14 years old and 16 years old, you begin to get more rights under the law. This section takes you through the teenage years and explains your rights.

Medical issues

A doctor needs permission from your parents or guardian before treating you. However, you may give permission for or approve your own health care for some conditions. Topics include pregnancy and HIV testing and reporting.

Mental health issues

When you are 14 years old or older, you generally may authorize your own mental health treatment. In this section we talk about confidentiality, hospitalization, and paying the bills.

Adoption

If you are over 14 years old, you cannot be adopted unless you agree to the adoption. Other topics of interest such as finding your birth family and giving up your own child for adoption are discussed.

Guardianship

When a parent cannot fulfill her/his responsibilities to her/his own child, a court may appoint another adult as the child's legal guardian. Who can be a guardian? What do they do? These are some of the questions answered in this section.

Emancipation

Emancipation is the legal process where a child between the ages of 16 and 18 becomes free from the control of his/her parents or legal guardian. How do you get emancipated? Learn more about the process in this section.

Abortion

When you can't get parental consent for an abortion, you can ask the court to hear your case. This section details the process from filling out the forms to appearing in court.

Name change

If you decide you want to change your name, this gives you a step-by-step guide.

Section Two: You. Police. Court.—A guide to the legal system

If you are involved with the police, it is important to be respectful. It is also important that you know your rights and what to expect. Learn how to handle a stop, how to talk to police, and what it means to be arrested.

In the discussion about going to court and the options, the court process is explained, including your right to a lawyer, hearings, trials, pleas, and appeals, as well how to clear your record for the future.

How to handle stops

It is important to know your rights. It is even more important to behave properly when you are stopped.

Talking to the police

Be respectful and act courteous. What should you do? What are your rights if the police want to talk to you?

The arrest process

Stay calm. Be polite. Don't resist. Don't complain. This section covers some often-asked questions about the arrest process.

What happens after the arrest?

Be sure to give the police correct information about reaching your parents. This section discusses what you can expect after the arrest.

What are the options in your case?

You might be given the option to participate in a diversion program or accept a consent agreement instead of going to trial.

Court hearings

If your case is on the court's formal calendar, you may go through several steps called hearings. This section explains those hearings.

Going to trial

The court presumes you are innocent until the prosecutor proves you guilty. Presenting evidence and questioning witnesses are part of the process of determining guilt.

Guilty pleas

Pleading guilty or no contest means you will be found guilty without a trial.

Disposition hearing (sentencing)

You can affect the sentence you get by putting your best foot forward. This section offers suggestions.

Appeal

If you think there was a legal mistake made in your trial, you can ask the court to re-examine the information.

Expungement/access to records

You may ask to have your record cleared. In this section, we tell you when you can do it and how to do it.

Your right to a lawyer

A lawyer can help you throughout the court process. This section describes how you can help your lawyer do the best job for you.

Section Three: Guide for Parents—Your responsibilities

What are abuse and neglect? Who makes claims of abuse/neglect, and how are they investigated? You can learn about the process, your right to a lawyer, getting your child back, and other issues regarding your relationship to your child under the law.

Defining neglect

There are two kinds of neglect–failure to provide and failure to protect.

Defining abuse

A child is abused when he/she is harmed or threatened with harm by any person legally responsible for his/her care.

Five categories of abuse and neglect

Category V: services not needed; Category IV: community services recommended; Category III: community services needed; Category II: CPS required, the department determines that there is evidence of child abuse or neglect or intensive risk of future harm to the child; and Category I: court petition required.

Reporting abuse/neglect

Many different people can make reports. The agency responsible for investigating the reports is the Children's Protective Services (CPS).

Investigating claims

A social worker from CPS will investigate the claims against you. Understanding his/her role is important.

The abuse/neglect court process

The court will look at the information in the petition that the CPS worker submits and determine what needs to be done in the best interest of the child/children.

At the first court appearance, the court must advise the parent of the right to retain an attorney

and that the parent has the right to a court-appointed attorney if he/she is financially unable to retain an attorney.

Getting your child back

Even if the court removes your child because you have neglected or abused him/her, you are given a chance to get him/her back. The ultimate objective of CPS is to protect children by stabilizing and strengthening families whenever possible through services to the parents or other responsible adults to help them to effectively carry out their parental responsibilities

Terminating rights

What does it mean to me and to my child to have my parental rights terminated? Can I appeal the decision?

Your lawyer

Depending on your income, you may have to pay for a lawyer's services. Your child will have a court appointed lawyer.

Guardianship. Limited guardianship. Full guardianship.

A guardian is legally responsible for the care of and decisions about your child. There are limited and full guardianships.

Monitoring guardianships

The court that approves the guardianship is responsible for monitoring it.

Terminating guardianships

How can you get custody of your child back? Can a child ask to have a guardianship terminated? Find the answers in this section.

Section One: Decisions—What You Need to Know

1. Overview of Your Rights

Minor

If you are a minor, you have the right to:

- Make some decisions about your medical care by yourself without the permission of your parents or guardian;
- Decide, with the permission of your parents or guardian, to give up a baby for adoption (if you are emancipated, you can make this decision by yourself);
- Ask a court to let you decide about an abortion by yourself without the permission of your parents or guardian; and
- Ask a court to change your name (with the permission of your parents or guardian).

14 or Older

If you are at least 14 years old, you have the rights listed above and the ones below:

- Make some decisions about your mental health treatment;
- Decide if you want to be adopted or not (if you are available for adoption);
- Tell the court whom you want to be your guardian; and
- Decide if you want your name changed or not.

16 or Older

If you are at least 16 years old, you have all the rights listed above for 14 year olds and the following:

- Ask a court to emancipate (free) you from your parents; and
- Make decisions about school/your education.

When Will the Law Consider Me an Adult?

For most purposes, you become an adult when you turn 18, an age established by the Age of Majority Act. However, other ages can be important depending on what legal issues are involved. For example, under Michigan law a person is considered an adult for purposes of the criminal law at age 17. So if a 17 year old is accused of a crime, he/she will be tried as an adult in either district or circuit court rather than in family court. Similarly, Michigan's Constitution establishes the legal drinking age as 21. Also, if you are emancipated, then you are legally an adult.

2. Medical Issues

May I authorize (give permission for) my own medical care?

Usually, a doctor needs permission from your parents or guardian before treating you. However, you may give permission for or approve your own health care for some conditions. For example, you may authorize your own treatment for drug abuse, testing and treatment for venereal disease or HIV, and any medical treatment related to prenatal care or pregnancy. This does not include abortion services. See section on parental waivers for abortions.

If my doctor's test indicates I am pregnant, does he/she have to tell anyone?
Your doctor is not required to tell anyone. However, the doctor may tell the baby's father, your parents, or legal guardian. The doctor can do this to explain the medical care he/she has provided or explain the need for future care. The doctor does not need your permission to talk to these people for this reason.

What if I don't want my doctor to tell my parents I am pregnant?
If your doctor thinks there is a "medical reason" to tell your parents or the baby's father, he/she may do so even though you object.

Can a doctor give me an HIV test without my permission?
No. Michigan law says before a person can be tested for HIV or AIDS, she/he must give permission in writing. Before giving permission, you are entitled to be "informed." This means you will be asked to sign the permission slip. The staff of the healthcare facility must tell you what will happen if your test is positive and provide you necessary counseling. However, if you are convicted of certain crimes (for example, prostitution, criminal sexual misconduct, or taking illegal drugs by needle), you will be required by the court to be tested for HIV, venereal disease, and hepatitis B.

If I have a venereal disease or HIV, will my doctor tell anyone?
Generally, HIV test results are confidential. This means the results are private and won't be told to anyone UNLESS your test result is positive. If the test shows you are HIV positive, your doctor must report this to the health department, but you can ask the doctor not to tell the health department your name. Your doctor also may–but does not have to–tell your spouse, your parents, or your legal guardian about the treatment you have received or the treatment you need. You can ask the doctor not to tell these people, but the doctor is free to make his/her own decision.

What will my doctor do if I am HIV positive?
Michigan law requires your doctor or healthcare facility to counsel you about your HIV positive status. The type of counseling you get will depend upon your health care needs. Your doctor must also refer you to the local office of the health department. They can help you with "partner notification," an important process to limit the transmission of HIV. The doctor's referral may include giving the health department your name, address, and telephone number.

What will the health department do?
The law requires the health department to have a staff member attempt to talk to you. However, you can decide whether or not you want to talk with this person. If you are HIV positive because of sexual activity or shared drug usage, the health department will ask about your partners. The health department will attempt to notify your former sexual or shared drug partners who may be at risk for HIV to tell them they have had contact with someone who is HIV positive. However, the health department will not tell them who may have infected them–your identity is confidential.

If I am HIV positive, do I have to tell anyone?
A person's health care information is usually confidential, so typically you do not have to tell people about your health. However, if you are HIV positive and want to engage in sexual relations

with another person, Michigan law requires you to tell that person about your HIV status before you engage in sexual relations. If you do not inform your partner, you may be guilty of a felony crime, punishable by one to four years in prison.

3. Mental Health Issues

I want to see a counselor. Do I need my parents' permission?
If you are 13 years old or younger, you cannot authorize (give permission for) your own mental health counseling. If you are 14 years old or older, generally you may authorize your own mental health treatment for most purposes. However, you can only authorize mental health treatment provided on an outpatient basis (this means you cannot check yourself into a psychiatric hospital). In addition, you cannot authorize any medication as part of your mental health services or authorize mental health services that would result in a referral for abortion services.

If I get my own counseling, will my counselor tell anyone?
When you go to a counselor, what you say is generally confidential. The counselor cannot legally tell anyone else what you say. But there are a couple of very important exceptions to this rule. First, if your counselor thinks you have been abused by your parent, legal guardian, teacher, or teacher's aide or by any other person responsible for your health or welfare, the counselor must report this to Children's Protective Services (CPS). Similarly, if you threaten to hurt someone, and if the counselor believes you can and may actually hurt the person, the counselor must tell either the other person or the police. As for telling your parents, if you are 14 years old or older and seek treatment on your own, the counselor from whom you receive treatment typically cannot tell your parents what you have said or even confirm you are seeing him/her unless you have given him/her permission to do so. There is an important exception to this general rule. If the counselor believes you are going to harm yourself or another person, then the counselor may tell your parent, but the counselor must tell you first.

If I authorize my own counseling, how long may I go to counseling?
You may authorize your own treatment for 12 sessions or for 4 months for each request for service. After 12 sessions or 4 months, whichever comes first, the counseling must stop or the counselor must ask your permission to tell your parents. If you decide you do not want to tell your parents, then the counseling must stop. But if you agree to notify your parents to get their permission for more services, then the counseling can continue as long as necessary.

If I get my own counseling, will my parents have to pay for it?
No. Under Michigan law, if you are old enough to authorize your own counseling, your parents are not responsible for whatever bill may result. If you have medical insurance that covers counseling, it will pay for your service. If you don't have medical insurance, you can look for free or low-cost services, which you can pay on your own.

May I ask to be hospitalized for mental health treatment?
Only a doctor can authorize hospitalization. You may request to be hospitalized, but you cannot actually be hospitalized unless a doctor determines you have a serious mental or emotional problem that cannot be treated on an outpatient basis while you live in the community. The doctor

would have to determine there is no less restrictive program to meet your treatment needs. Most hospitals are locked facilities and severely limit their patients' freedom to move about as they please.

If I am placed in a psychiatric hospital against my will, may I object?
You may object to or fight this type of hospitalization if you are 14 years old or older. If you object, the staff of the hospital must assist you in making the objection to a court. The objection is a form, which you fill out and the hospital authorities must file with the court. The court will appoint an attorney to represent you in the matter.

4. Adoption

Being Adopted
If you are over 14 years old, you have the right to decide whether or not someone will adopt you and what your name will be after you are adopted. You might have to make this decision if:

- your parents consent to your adoption because they are unable to take care of you;
- a stepparent who lives with you wants to adopt you;
- a court terminates the rights of your parents; or
- your parents die.

If you are over 14 years old, you cannot be adopted unless you agree to the adoption. If you agree to be adopted, you will be asked to fill out a form called Consent to Adoption by Adoptee (Form PCA307). If you do not want to be adopted, do not sign this form, and be sure to tell the judge how you feel.

Finding your birth family
Once you turn 18 years old, you can ask for information about your birth family from the agency that placed you in your adopted home, or the court that finalized your adoption. You can get the information by writing to:

Department of Community Health
Customer Services Section
3423 North Martin Luther King Jr. Blvd.
P.O. Box 30721
Lansing, Michigan 48909

Once the court is found, the court can give you the name of the agency if an agency was involved. If you know the court that has your adoption record, you can fill out a form called Petition for Adoption Information and Order (Form PCA 327). This can be found on the Internet at:

http://www.courts.mi.gov/scao/courtforms/adoptions/pca327.pdf

After downloading and printing this file, fill it out completely and take it or mail it to the family division of your circuit court. You can find the address of the family court in your area on the Internet at:

http://www.michbar.org/programs/atj/pdfs/familycourts.pdf

If you know the agency that has your adoption record, you can fill out a form called Request by Adult Adoptee for Identifying Information (Form DHS-1925). This form can be found on the Internet at:

http://www.michigan.gov/documents/FIA1925_10575_7.pdf

Download the file, print it out, fill it out completely, and then turn it in to the appropriate agency. The adoption law allows the court or agency to charge a fee of up to $60 for information from your adoption record. Once the court or agency gets your request, it will contact the Central Adoption Registry (CAR). The CAR is a file kept by the Department of Human Services (DHS) in Lansing. It has statements from former parents and adult former siblings saying whether or not they agree to have information about themselves released to an adult adopted person who is looking for them. Only the courts and adoption agencies can get information from the CAR–you must go through the court or adoption agency by filling out one of the forms listed above. Once the court or agency gets an answer, it will write you and give you the information you asked for or tell you why it cannot. More information on adoption can be found on the website for the Michigan Department of Human Resources at

http://www.michigan.gov/dhs, click on the link that says "adoption."

Giving up a child for adoption

If you are under 18 years old and not emancipated, you must have the permission of your parent or guardian in order to give up your child for adoption. To give up your child for adoption, you will need to fill out a form called Consent to Adoption by Parent (PCA 308). It is available on the Internet at:

http://www.courts.mi.gov/scao/courtforms/adoptions/pca308.pdf

Your parent or guardian also will have to sign the form. The form should then be filed in the family division of the circuit court. You can find the address of the family court in your area on the Internet at:

http://www.michbar.org/programs/atj/pdfs/familycourts.pdf

The court will hold a hearing within seven days of the form being filed, and you will sign the form in court. If you want your child to be able to find you when she/he becomes an adult, you can fill out Form DHS 1919 from the Michigan Department of Human Services, Parent's Consent or Denial to Release Information to Adult Adoptee. You can get this form on the Internet at:

http://www.mich.gov/documents/FIA1919_10574_7.pdf

Or you can get it from:

- The family division of the circuit court. You can find the address of the family court in your area on the Internet at:

  http://www.michbar.org/programs/atj/pdfs/familycourts.pdf

- The agency placing your child up for adoption;
- The local department of human services. You can find the address of the DHS office near you on the Internet at:

  http://www.michigan.gov/dhs/0,1607,7-124-5461---,00.html

- The Central Adoption Registry. The address for the Central Adoption Registry is:

  Michigan Department of Human Services
  Central Adoption Registry
  P.O. Box 30037
  Lansing, Michigan 48909

If you change your mind or want to update any information on the form after you fill it out, you can turn in a new form to the Central Adoption Registry. More information on adoption can be found on the website for the Michigan Department of Human Resources at

http://www.michigan.gov/dhs; click on the link that says "adoption."

5. Guardianship

What is a legal guardian?
A guardian is a person who is legally responsible for the care of and decisions about someone else. A minor child's parents are the child's legal guardians according to law. When a parent cannot fulfill her/his responsibilities as legal guardian of her/his own child, a court may appoint another adult to be the child's legal guardian.

Who is eligible to be guardian of a minor?
Any adult whom the court determines is fit and able to fulfill the powers and duties of guardianship may be appointed as the legal guardian for a minor.

What does a guardian do?
When a legal guardian is appointed for a child, the rights of the child's parents are suspended. The guardian steps into the shoes of the parent and fills the role a parent would otherwise fill. The guardian has the same rights and duties as a parent regarding the child. These include making any necessary decision to provide for the child (e.g., medical care, where the child will attend school); taking care of the child's property; receiving any public benefits due the child (e.g., SSI or TANF). A guardian must from time to time report to the court about how the child is doing. If the guardian moves, the guardian has 14 days to report to the court the child's new address.

Who may ask the court to appoint a legal guardian?
Under Michigan law, any "person interested in the welfare" of a child may ask the court to appoint a legal guardian.

Can I ask the court to appoint a guardian?
Michigan law allows a minor who is 14 years of age or older to ask the court to appoint a legal guardian for her/him. You can nominate a specific person to be your guardian by filling out a Petition for Appointment of Guardian of Minor (Form PC 651). It is available on the Internet at:

http://www.courts.mi.gov/scao/courtforms/guardian-conservator/pc651.pdf

You need to file this form at the probate court, or in some cases, at the family division of the circuit court. You can find the address of the family court in your area on the Internet at:

http://www.michbar.org/programs/atj/pdfs/familycourts.pdf

The court will have to decide whether it is best for you to have someone other than your parent be your guardian. If the court decides you should have a guardian and you ask the court to appoint a specific person, the court must appoint the person you specify unless the court finds doing so is not in your best interests.

If the court appoints a guardian, what effect does this have on my parents' rights?

If a legal guardian is appointed for you, your parents no longer have the right to care for you or make decisions for you.

How will the court monitor the guardianship?
The court that approved the guardianship may review the guardianship as often as the judge thinks is necessary. In addition, the guardian will have to submit a report about you to the court at least once a year.

Can I ask the court to terminate a guardianship?
If you are 14 or older, you may ask the court to remove the guardian. In addition, you may ask the court to either let you go back to your parents or appoint a different guardian for you.

How does a judge decide whether to terminate a guardianship over me?
A judge must decide whether terminating a guardianship is in your best interests. Michigan law says that the judge must consider 11 specific factors when making this decision. These include things such as the mental and physical health of your guardian and parent, how you are doing where you live, in school and in the community, as well as where you say you want to live. The judge may consider almost any information he believes is helpful in order to make the best decision.

6. Emancipation

What is emancipation?
Emancipation is a legal process where a child between the ages of 16 and 18 becomes free from the control of his/her parents or legal guardian. Emancipation ends the rights of the parents or guardian to the custody, control, services, and earnings of the child. An emancipated child is legally an adult. In Michigan, you are automatically emancipated when you:

- get married;

(Note: If you are under 16 years old, your parents must make a written request to a judge. If you are at least 16 years old, but under 18 years old, and not emancipated, you must have the written consent of at least one parent or your guardian to lawfully marry.)

- turn 18 years old; or
- are on active duty with the United States military.

If you are 16 years old or older, you also can go to court to ask a judge for an order emancipating you from your parents. It is hard to get a court to order emancipation. You have to be able to show you can fully support yourself.

What happens if I am emancipated?
If you are emancipated, you give up the right to be supported by your parents. You will have the rights and responsibilities of an adult.

When you are emancipated, you can:

- live apart from your parents where you want;
- enter into contracts, including apartment leases;
- bring a lawsuit (but you can be sued in your own name, too);
- earn a living and keep the money you earn;
- consent to your own health, medical (including an abortion), dental, and mental health care;
- register for school;
- get married;
- apply for Medicaid or other welfare assistance for which you may be eligible;
- if you are a parent, make decisions and give permission in caring for your own minor child; and
- make a will.

NOTE: even if you are emancipated, **you do not have the right to**:

- drink alcohol until you are 21 years old
- vote until you are 18 years old

The following are examples of the responsibilities you will have if your are emancipated:

- support yourself financially;
- find your own place to live;
- pay your own bills (you will be responsible for your own debt); and
- get your own medical insurance.

How does a court emancipate me?
You must be at least 16 years old to ask a court to emancipate you from your parents. Only a child can file for emancipation. Parents cannot ask a court to emancipate their children. You also should know that courts do not grant emancipation petitions very often. To file for emancipation, you need to fill out a Petition for Emancipation (Form PC 100). You can get the form from the family division of the circuit court in the county where you live. You can find the address of the family court in your area on the Internet at:

http://www.michbar.org/programs/atj/pdfs/familycourts.pdf

Or you can get Form PC 100 on the Internet at:

http://www.courts.mi.gov/scao/courtforms/emancipation/pc100.pdf

In order to complete the form, you will need:
1. your full name, birth date, county, and state where you were born;
2. your Social Security Number;
3. a certified copy of your birth certificate;
4. the name and last known address of your parents, guardian, or custodian;
5. the address where you are living and how long you have been living there;
6. proof of your employment (or proof of how you will support yourself financially);
7. proof of your housing (for example, a lease).

You will need to do two more things before filing your petition with the court:
1. Read the Emancipation of Minors laws (Michigan Compiled Laws 722.1 through 722.6). These are available on the Internet at http://www.michiganlegislature.org, at your local library and court. This will help you understand what it means to be emancipated.
2. Get an affidavit (a written statement that is notarized or given under oath) from one person who knows you and will say that emancipation is in your best interest. At the end of the Petition for Emancipation is an affidavit the person you choose can fill out. The person filling out the affidavit for you must be a physician, nurse, pastor or priest, psychologist, family therapist, social worker, social work technician, school administrator, teacher, school counselor, regulated child care provider, or law enforcement officer.

Once you have finished filling out the Petition for Emancipation, you should take it to your local circuit court. You can find the address of the family court in your area on the Internet at:

http://www.michbar.org/programs/atj/pdfs/familycourts.pdf

After you have turned in your petition, the court will tell you when it will have a hearing to decide on your petition. Make copies of all the papers and put them away for safekeeping.

What happens at the hearing?
The hearing will be before a judge or a referee; you can choose to have a judge or referee. If you did not turn in proof of your job or your housing, bring it to the hearing to show the court.

How are my parents involved with this?
Your parents can agree with or object to your petition. If your parents disagree with your petition, you will have to prove they are not supporting you and show you can pay your own bills and have a place to live. The court will not consider going on welfare a viable option.

How will the court decide if I should be emancipated?
For a judge to emancipate you, you will have to prove six things:

1. Either your parents do not object to your petition for emancipation or, if they object to it, they are not providing you with any support.
2. You are at least 16 years old.
3. You are a Michigan resident.
4. You can support yourself financially. For example, you have a job and earn enough money to take care of yourself. You will not be able to show you can support yourself if you can only support yourself with public aid, but if you are emancipated and lose your job, you can apply for public benefits.
5. You have a place to live.
6. You understand your rights and responsibilities as an emancipated minor. If the court emancipates you, keep a copy of the order signed by the judge as proof of emancipation. You may need it to prove you do not need your parents' consent any more.

Is emancipation permanent? What if I change my mind after I am emancipated?
Emancipation usually is permanent. If you lied on your petition, the court may cancel or take away its order emancipating you. If your circumstances change, your parents or you can also ask the court to cancel the order emancipating you. For instance, the court could cancel the emancipation order if you were no longer supporting yourself or you and your parents agree that you don't want to be emancipated any more.

If the court cancels the order emancipating you, you will still be responsible for any bills or debts you accumulated while you were emancipated.

Where can I get help in deciding if I want to be emancipated?
Emancipation is a big decision and one you should think about carefully. If you feel you cannot live with your parents, you also may want to think about family counseling or living with another adult or relative. If you would like to talk with someone about emancipation, you can begin by contacting a lawyer referral service or your local legal aid office. You can find the address of your local legal aid office online at:

http://www.michbar.org/public_resources/legalaid.cfm

7. Abortion

A minor (a person under 18 years old who is not emancipated) normally must have the written consent of at least one parent or her legal guardian in order to get an abortion. If you are a minor but

- you do not want to get the consent of your parent or guardian;

- your parent or guardian is not available; or
- your parent or guardian refuses to give you permission for an abortion,
- then you can ask the court for a parental consent waiver.

Note: If you need an abortion because a doctor believes your pregnancy is creating a threat to your life or will create serious risk of major and irreversible harm of a major bodily function, you do not need the written consent of your parent or guardian to get an abortion.

What happens if I get a parental consent waiver?
If you get a parental consent waiver, you can consent to an abortion by yourself without the permission of your parent or guardian.

How do I ask the court for a parental consent waiver?
You will need to fill out two forms:

1. Petition for Waiver of Parental Consent for an Abortion (Form PC 119) available on the Internet at:

   http://www.courts.mi.gov/scao/courtforms/abortionwaiver/pc119.pdf

2. Confidential Information for Proceedings Concerning Waiver of Parental Consent (Form PC 122) available on the Internet at:

   http://www.courts.mi.gov/scao/courtforms/abortionwaiver/pc122.pdf

On the Confidential Information sheet, you will have to give your name, your date of birth, your permanent address, and your phone number. If you only want your initials used in the court papers, you can tell the court what initials to use on the Confidential Information sheet. All information you give in any papers to the court or in court to a judge will be kept confidential, and if you want, only your initials will be used. The forms are also available at the family division of the circuit court in your area. You can pick them up there or call and have them mailed. The forms are free, and you will not have to pay anything to file your petition. The papers have to be brought back to the courthouse once they are filled out to be filed.

Can I get help filling out the forms?
Yes. You can ask the court for an attorney or guardian ad litem to help you with the petition. If you want help from an attorney or guardian ad litem, fill out a Request and Order for Court Appointed Attorney/Guardian Ad Litem for Waiver of Parental Consent (Form PC 118) and file it with the court. This form is available on the Internet at:

http://www.courts.mi.gov/scao/courtforms/abortionwaiver/pc118.pdf

The help is free. After you ask for help, someone will be appointed to help you within 24 hours. Once you are told who is helping you, you must contact that person within 24 hours. The attorney or guardian ad litem must contact you within 48 hours of your call. If you do not hear from your attorney or guardian ad litem, call the court.

You can ask the clerk where to go for help in filling out the petition, Confidential Information sheet, and request for an attorney or guardian ad litem.You also can have a "next friend" sign and file the petition for you instead of doing it yourself. A "next friend" is any responsible adult who is not:

- a doctor who performs abortions;
- a person who is employed by, or receives money from, a doctor who performs abortions or an organization that provides abortions or abortion counseling and referral services; or
- a person who serves as a board member or volunteers at an organization that provides abortions or abortion counseling and referral services.

What happens after I file the petition?
The court will have a hearing on your petition within 72 hours (not counting Sundays and holidays) after you file it. If you are ready to have a hearing immediately, you can ask the clerk if a judge can see you the same day. The hearing will be closed to the public, which means the only people who can be at the hearing are you, your attorney/"next friend"/guardian ad litem, and anyone you say can be there. The hearing will be held in either a courtroom or a judge's chambers. The judge must make a decision on your petition within 48 hours (not counting Sundays and holidays) after the hearing is held.

How will the judge make a decision?
The judge will grant your petition if you prove one of two things:

1. you are mature and well-enough informed to make the decision regarding abortion without the help of your parents or legal guardian; or
2. the waiver is in your best interests. If you tell the judge that you are pregnant because you were sexually abused, the court will have to report the abuse to the Department of Human Services (DHS) or to the police.

What happens if the judge grants my petition?
The court will immediately give you two certified copies of its order granting your petition. The order will last 90 days from the date of entry (the date will be listed on the order), which means that if you want to have the abortion without the consent of your parents, you must get the abortion within 90 days. If you get this waiver from the court, you can get only an abortion allowed by law. For example, no one in Michigan can get an abortion after the 24th week of pregnancy unless an abortion is needed to save the life of the mother. This means your 90-day order will only be good through the 24th week of pregnancy unless your life is in danger.

Also, the order only allows you to bypass parental consent for an abortion. The order does not require anyone to pay for an abortion for you or require any doctor or clinic to perform the abortion. Finally, the order does not require you to go through with the abortion if you change your mind.

What happens if the judge denies my petition?
You can ask a higher court to look at your petition (appeal the decision). To appeal the decision,

fill out the form called Appeal of Order Denying Petition for Waiver of Parental Consent (Form PC121) and file it with the court. You must file your appeal within 24 hours of getting the judge's decision denying your petition. Form PC 121 is available on the Internet at:

http://www.courts.mi.gov/scao/courtforms/abortionwaiver/pc121.pdf

8. Name Change

If you are under 18 years old, you cannot change your name unless your parents (or one parent if your other parent is missing or dead) or guardian agree to it. If you live with only one parent, you do not need the permission of your other parent if you can show that your other parent has not regularly visited, contacted, or supported you for at least two years. The court will tell the parent you do not live with you have asked to change your name, and he/she can object (tell the court he/she does not want you to change your name). The court will decide if you can change your name or not.

What do I need to do to change my name?
If you want to change your name, you should go to the family division of the circuit court in the county where you live. You can find the address on the Internet at:

http://www.michbar.org/programs/atj/pdfs/familycourts.pdf

Ask for the Petition to Change Name (Form PC51). If you prefer, you can download Form PC51 from the Internet at:

http://www.courts.michigan.gov/scao/courtforms/namechange/pc51.pdf

After you have filled out the form and turned it in, the court will tell you when it will have a hearing to decide on your petition. When you turn it in, you will get information on the process and filing fees.

Before a court will let you change your name, you will have to show:
- you have been living in the county where the court is for at least one year;
- you have a sufficient reason for changing your name; and
- you are not changing your name to try to defraud or trick anybody.

If the court lets you change your name, you will have to pay a small fee to get a certified or official copy of the court order. Keep this order in a safe place. You may need it to prove you have changed your name. You may also need to change your name on your Social Security records, driver's license, etc.

Note: Changing your name does not change your relationship with your parent(s) or guardian.

Can someone change my name if I don't want to change it?
If you are 14 years old or older, no one can change your name without your permission. If you

want to change your name, you have to sign the Petition to Change Name; if you do not want to change your name, do not sign the petition. If you are 7 years old, but under 14 years old, and the judge thinks you are old enough to know if you want your name changed or not, the judge has to consider (think about) what you want. If you want to change your name, you can sign the Petition to Change Name; if you do not want to change your name, do not sign the petition.

Section Two: You. Police. Court.

1. How to Handle Stops

It is important to know your rights when dealing with the police, security guards, or school officials. It is even more important to behave properly. They have a lot of power to decide how to handle situations. Your goal is to have them use their power in your favor.

This does not mean you should give up your rights. It simply means if you choose to exercise your rights, you should do so with respect, without a fuss, and without anger.

Traffic stops
The police can pull over anyone (the driver or passenger) in a car for breaking traffic laws. When the police pull someone over for a traffic violation, they can order him/her and all passengers out of the car. The police do not have the right to search people or the car just because there has been a traffic violation. The police may ask to search a person, a person's belongings, or a car during a traffic stop, but the person has the right to say no. The police can frisk (a patdown search) someone during a traffic stop if they have reason to believe the person is armed.

Security guards
Private security guards are permitted by law to hold you if they believe you have committed a crime in the area under their control. They may search and question you. You do not have to answer their questions. Unlike police officers, private security guards do not have to read you your rights before asking you questions except in very rare circumstances when they are working with or for the police.

School searches
School officials do not need as much of a reason to search students and their belongings as the police do. By law, lockers at school belong to the school and not to the student, so a principal, teacher, or other school official can search any locker at any time for any reason.

In addition, schools may set a reasonable policy requiring students involved in any extracurricular activity (e.g., band, student government, sports) to take a drug test.

School interrogations
School interrogations can be conducted by school staff or the police stationed in the school. A principal or teacher does not have to read a student his/her rights before asking him/her questions unless doing so under the direction of law enforcement, and a student does not have to answer the questions. You can always ask to have your parents present before you answer questions about a crime. If you or your parents believe the school may refer the case to the police, you may want to talk with a lawyer or even have one with you. If you answer questions, school officials still might discipline you. However, if you refuse to answer questions, the lack of cooperation might make it more likely school officials would suspend or expel you or turn the incident over to a court.

Many schools have police officers stationed in the school building. A police officer may ask a student questions, but if he has the student in custody as part of an arrest, he must read the student his/her rights just like with any other arrest.

2. Talking to the Police

Whenever you talk to the police or if the police want to talk to you, it is important to be respectful and courteous. Act the way you want the police to act, and treat the officer the way you would like the officer to treat you.

What are my rights when the police want to talk to me?
A police officer may walk up to any person on the street and ask him/her questions. He does not need evidence you have done anything illegal. You do not have to answer an officer's questions, and you have the right to walk away from him/her. It is a good idea to ask the officer, "Am I free to leave?" If the officer answers "yes," you are not under arrest and may walk away. You should walk away–do not run, because running from the police may be seen as guilty conduct. If you walk away, the officer may follow you or stop you. If the officer follows you, again you are not under arrest. If the officer makes you stop, you should consider yourself under arrest.

If the police ask to speak with you about an investigation, it is a good idea to consult with your parents and a lawyer. If you choose to talk to the police, the things you say may be used against you, if you are ever charged with a crime.

When can the police stop me? What are my rights?
The police may stop you if they have a legitimate reason to suspect you have committed or are about to commit a crime. If the police tell you to stop moving, you should do so. Such a stop is not technically an arrest, but the police officer can "frisk" or conduct a pat down search of your clothing if the officer reasonably believes you may have a weapon. Still, you do have rights when stopped in this way. If the officer asks you questions or asks for permission to search your bags or clothes, you may refuse, but remember the basic rule when asserting your rights–be respectful!

I have heard of Miranda rights, but when do I have them, and what are they?
Whether on the street or in the station, everyone has Miranda rights when two things happen:

1. a person is in police custody, and
2. the police are going to ask the person questions.

If the police simply walk up to you on the street and ask you a question, you are not in custody, so you do not have Miranda rights. If you are under arrest, you are definitely in custody and do have Miranda rights–but again, only if the police want to ask you questions. Sometimes, the question of custody can be a little blurry if the situation falls somewhere between a simple question and an arrest. If you are in custody and the police are going to ask you questions, then they must read you your Miranda warnings (tell you what your Miranda rights are) before they begin questioning you.

There are two core Miranda rights:

1. the right to remain silent, and
2. the right to have an attorney with you when being questioned

The police must tell you about these rights before they ask you questions. They should also tell you anything you say to them can be used against you when your case goes to court, and if you cannot afford a lawyer, one will be appointed for you (the court will arrange for a lawyer for you).

Having the right to remain silent means the police cannot make you answer their questions about your charge. If you do choose to answer some questions after the police have told you your rights, then anything you say can be used as evidence against you in court. Even if you choose to start answering questions, you keep the right to remain silent and can stop answering any questions at any time.

You also have the right to have a lawyer present during questioning. You have this right even if you and your family do not have the money to afford a lawyer. If you tell the police you want a lawyer with you during questioning, they will have to stop questioning you until the court can arrange for a lawyer to be there for you. If you start answering questions and then change your mind, you can ask for a lawyer, and the police have to stop asking you questions until you get a lawyer (but everything you have said before you asked for a lawyer can be used as evidence against you in court). You do not have a right to have your parents with you during questioning, but the police may allow your parents to be with you.

What if the police do not read me my Miranda rights?
If the police do not ask you any questions, they do not have to tell you your Miranda rights. If you are not in custody when they ask you questions, they also do not have to read you your Miranda rights. The Miranda rule says that the police must read you your rights before they interrogate you while in custody. "Interrogate" means to ask questions or otherwise say things designed to get a response from someone. So if the police are not going to interrogate you, they do not have to give you any Miranda warnings. If you are in custody but say things on your own without the police saying or doing anything, what you say can be used as evidence against you in court. But if the police do not read you your rights before they interrogate you and you are in custody, then anything you say to the police in response to their interrogation cannot be used to prove you guilty at a trial.

The fact that the police did not read you your Miranda rights does not mean the court cannot find you guilty. It simply means that any statements you made to the police (while in custody) in response to their interrogation cannot be used against you. If you say something to the police when they did not ask you a question, your statement can be used against you even if the police did not read you your rights.

Even if the police do not read you your rights, your statements to the police could still be used against you at trial if you testify at trial and tell the court something different from what you told the police.

What if the police ask me questions, but I am not under arrest?
As mentioned above, you always have the right to refuse to answer a police officer's questions. Police must read you your rights only when you are in what is called custody. If you are not in custody, the police do not need to read you your rights. Often, police will contact someone to speak

with him/her. Maybe the police think the person is a witness. Maybe they believe the person is a suspect but cannot prove it. If the person chooses to talk to the police, the things he says could be used against him, if he is ever charged with a crime. If the police wish to speak with you about an investigation, it is a good idea to talk about it with your parents first and with a lawyer, if possible.

If the police didn't read me my rights when I was arrested, was it a bad arrest?
No. The police do not have to read you your rights in order to arrest you. The police only have to read you your rights if:

1. they are taking you into custody, and
2. they are going to interrogate you.

3. Arrests

It is important to know your rights when dealing with the police. It is even more important to behave respectfully. We all know sometimes how you say something is as important as what you say. A police officer will understand if you exercise your rights respectfully. But a police officer will not understand if you exercise your rights in a rude manner or if you are angry and yelling. Remember, police officers have a lot of power to decide how to handle most situations. If you treat them disrespectfully, they may not use that power in your favor. This does not mean you should give up your rights.

When can the police arrest me, and what are my rights?
If a police officer has enough evidence to believe you have committed a crime, the officer may arrest you. If you are not sure if you are under arrest, ask politely. If you run away from the police when they are trying to arrest you, you might be committing the separate crime of resisting arrest. If the police have enough evidence to arrest you, they do have the power to search your entire body and those possessions you have with you, either on your body or in the area nearby. Generally, the police cannot search inside your house without a warrant, which is a court order allowing them to do such a search.

The police may tell you that you are not under arrest and you are free to leave. They may then begin asking you questions. You do not have to answer their questions. It is important you understand you may be a suspect, and the officer may be asking you questions to gather enough evidence to arrest you. Because you are not under arrest, however, the police officer does not have to read you your rights. Remember: any time the police want to ask you questions, it is okay to ask to talk with your parents or a lawyer before answering.

What are my rights if the police ask me questions about my charge?
Your Miranda rights protect you after you are put in custody or arrested. The police may read you your rights as soon as they arrest you. But they do not have to. The police are required to read you your rights only *if* they ask you questions about a crime they suspect you committed and *if* you are taken into custody. There is more information about this in the "Talking to the Police" section.

You have the right to remain silent. You may choose to answer some questions, but can stop answering at any time. You have the right to have a lawyer present during questioning. You have this right even if you and your family do not have the money to hire a lawyer. If you tell the police you want a lawyer with you during questioning, they will have to stop questioning you until the court can arrange for a lawyer to be there for you. You do not have a right to have your parents with you during questioning, but the police may allow your parents to be with you.

What if the police did not have enough evidence to stop or arrest me?
If the police stop, frisk, or arrest a person without the required amount of evidence, then anything they find during the stop, frisk, or arrest may be kept out of evidence at any trial in the case. The defense lawyer can try to have this evidence excluded by filing what is called a "motion" with the court. Even if the court grants the motion and excludes the evidence, it does not mean the court cannot find you guilty. There might be other evidence to prove your guilt.

What happens if I am arrested?
If you are arrested, the law requires the police to take you immediately to court. However, as a practical matter, the police will usually take you to the police station. Once at the police station, you may be fingerprinted and photographed, and the police may ask you questions. Before asking you questions, the police are required to read you your rights. You do not have to answer the police officer's questions and respectfully may ask to see a lawyer.

4. After the Arrest

How will my parents find out where I am?
As soon as a police officer takes you into custody, the law says he/she must try to notify your parents or guardian. If the police decide to hold you in detention until your court hearing, they must call your parents to let them know you are being detained, and they must come to the hearing.

If I am arrested, does that mean I will have to go to court?
Not necessarily. The police can send you home with a warning.

If the police send my case to court, how long can they detain me?
The police can hold you until the court is available to hear your case. This should happen within 24 hours of your arrest, not counting Sunday. The police can also release you with a citation (a ticket to appear at a date and time to be set by the court) or release you to your parents if your parents promise to bring you back for your scheduled day in court.

It is very important for you to give police accurate information so they actually can contact your parents. Some kids are afraid of their parents finding out they have been arrested. But if the police cannot reach your parents, they will be less likely to let you go home. If the police decide to keep you locked up, the law says a police officer must take you to court immediately after completing the paperwork plus the routine processing procedure that might include fingerprinting.

The police are not allowed to hold you at the station for the purpose of questioning you about the crime for which you have been arrested. If the police are going to keep you locked up, your case

should be in court no later than the next day (excluding Sundays and holidays), so usually you should not spend more than one night in a juvenile detention center before you are brought to court.

5. Options at Court

Will my case go to family court or "adult" court?
Anyone who is 17 years old or older and accused of a crime will be tried as an adult in either district or circuit court (criminal court or adult court). Most cases involving youths under the age of 17 are handled in the family division of the circuit court, often referred to as "family court" (juvenile court). Depending upon your age and the crime you have been charged with, your case could be sent to criminal court. In some instances, a case may stay in the family division, but the judge has the power to give you either a juvenile or an adult sentence. If your case is one of those, both the judge and your lawyer should explain the situation to you at the beginning of the case.

What happens when my case goes to court?
The piece of paper on which a charge is written is called a petition. A court case begins when a petition is filed with the court. Most charges for breaking the law are filed by the prosecutor's office. Sometimes, kids can wind up in court for breaking laws that do not apply to adults (such as skipping school or running away from home). Someone other than a prosecutor might file those charges, for example, a school official or parent. Once a charge has been filed, a case is open. A case will stay open until it is dismissed or closed by the court.

You might be offered the opportunity to enter a diversion program or have your case put on the consent calendar.

If you are not offered or do not accept these alternatives, the court must decide if you did or did not break the law. The decision may be made at a trial, or it may be based on a guilty plea.

What is diversion?
Instead of going to court, you may be given the chance to participate in a diversion program. If you agree to participate in a diversion program, no petition is filed or, if one has been filed, the petition is put on hold while you participate in services ranging from community service to drug treatment. The object is to keep you out of trouble. If you successfully complete the diversion program, your case will be closed. If you do not successfully complete the diversion program, a petition may be filed or taken off hold.

What does it mean to have a case put on the Consent Calendar?
"Consent" means agreement. If you agree to have your case placed on the Consent Calendar, you are agreeing to let the court treat you as a guilty person. In many cases, the court must hold a hearing to provide the alleged victim of the crime with a chance to talk to the court officer before he/she decides whether to put your case on the Consent Calendar.

If you decide to leave your case on the Consent Calendar, you agree to comply with conditions the court will place on you, and in turn, the court agrees to limit what it can order you to do. For

instance, the court cannot take you out of your home. If you do not comply with the requirements of the court order you receive on the Consent Calendar, however, the court can place your case on the Formal Calendar, which is the regular court calendar. If the court finds you guilty on the Formal Calendar, the court can order you placed outside your home.

6. Court Hearings

If your case is on the Formal Calendar, the court has full power to make any orders the law allows, including ordering you placed outside your home.

The following tells the order of hearings on the Formal Calendar and a little bit about what happens at them.

You have the right to have a lawyer with you at every hearing on the Formal Calendar.
If you or your family cannot afford a lawyer, the court will appoint a lawyer for you. The lawyer will be your lawyer for your entire case. If a lawyer is appointed to represent you, your parents may be required to pay some or all of the fees for the lawyer's services.

Preliminary Hearing
At the preliminary hearing, the court tells you what the charges are and advises you of your rights. At the hearing, the court will ask you or your lawyer if you deny (plead not guilty to) or admit (plead guilty to) the charges. If you deny guilt at this hearing, you can change your mind and admit guilt later. If the prosecution decides to ask for you to be detained (locked up), the court must decide if you should be detained until further hearings take place. The court may release you to your parent or guardian with or without conditions until your next hearing. These conditions could include having a bond set to ensure your appearance at future court dates.

Contested Pretrial
The court asks the prosecutor and defense counsel if any agreements have been reached as to whether or not the case will go to trial. If a trial is chosen, the trial date is selected. If a plea agreement is reached, the court decides if it should accept the guilty plea.

Both sides must provide the names of prospective witnesses no later than 21 days before the trial.

Trial
When there is a "not guilty" plea, the court decides a person's guilt at a trial. Trials are described in the next section.

Disposition
If you plead guilty or are found guilty at trial, the court will hold a hearing to decide what you have to do because of your guilt. The disposition is also called the sentencing. Dispositions are described in a separate section.

7. Trial

When you are charged with a crime, you are presumed innocent.
Just being charged with something does not make you guilty. You can only be treated as guilty if one of two things happens:

1. You tell the court you are guilty. This is called admitting guilt or pleading guilty. There is also something called pleading "no contest," which is similar to pleading guilty.
2. The court holds a trial, and the government proves you guilty beyond a reasonable doubt.

Who will determine your guilt/innocence?
You must choose at the start of the case whether you want a jury, a judge, or a referee to decide if you are guilty. If you want a jury to handle your case, you (or your lawyer) must tell the court within 14 days after the court tells you about your rights (usually the preliminary hearing) or 14 days after your lawyer officially enters his/her name into the case but no later than 21 days before the trial. If you (or your lawyer) do not say anything in this time period, you cannot have a jury at your trial. If you do not want a jury but do want a judge, you (or your lawyer) must tell the court within the same 14-day period. If you (or your lawyer) do not ask for a judge to decide your guilt, the case can be assigned to a referee. The court may excuse a late filing in the interest of justice.

What is the difference between a jury, judge, and referee?
Every person charged with a crime, even a juvenile, has a right to have a jury decide if he/she is guilty. A jury is a group of citizens from the community that is called to court to do jury duty. Jurors do not necessarily have special legal training. Instead, they decide if a person is guilty based upon their common sense, everyday experience, and instructions from the judge as to what the law says.

A judge is a person whose job it is to run a courtroom and handle cases. Even if you choose to have a jury decide if you are guilty, there will still be a judge at your trial. In a jury trial, the judge's job is to tell the jury what the law is and to also run the trial in a fair way, making sure both sides have a chance to present their evidence and arguments, as the law allows.

A referee is a lawyer who works for a judge. The referees help the judges by handling some of their cases. Most referees involved in juvenile cases work on juvenile cases every day. A referee works just like a judge. If you have a referee, the trial will be the same as if a judge was there, but the referee will make a recommendation to the judge. The judge has to review the recommendation, and the judge will make the final decision.

The decision between a jury, judge, and referee is an important one. You should be sure to talk it over with your lawyer and your parents or other important advisors. You cannot wait long, or you will lose your choices.

Purpose of a trial
The court has a trial whenever the person charged with a crime pleads not guilty. When there is a trial, the court makes a decision about guilt based on the evidence presented to it.

Evidence
Evidence is information which one side or the other thinks will help the court decide if the person charged is guilty or not. Evidence can include the testimony of witnesses who come to court. It may also include objects (e.g., a gun or drugs) or documents (e.g., letters or receipts) used to show what happened. The court has certain rules about what can count as evidence. One of the most important jobs a lawyer has to do is to find evidence to support his/her side of the case and try to fight against the evidence the other side will try to use.

Because the person charged is presumed innocent, the defense does not have to submit any evidence at all. Instead, the government does. The lawyer for the government is called the prosecutor, and sometimes the government is referred to as "the prosecution." When a trial starts, the government must present its evidence first. By making the government go first, the court is making the government prove its case. This means the prosecution has to present enough evidence to prove someone guilty beyond a reasonable doubt.

Subpoena
If a lawyer for either side knows of a person who has information about the case, he/she can make the person come to court, even if he does not want to. The lawyer can send the witness a subpoena. A subpoena is a court order requiring the person to come to court to testify. If the person does not show up, he/she can be arrested. When the witness comes to court, the lawyer who brought him/her there will ask him/her questions in front of the judge. The other lawyer might also ask the witness questions.

Testifying
The witness will have to swear to tell the truth. After the witness is sworn in, the lawyers will ask the person questions, starting with the lawyer who sent the witness the subpoena to come to court. Once the prosecution lawyer is finished asking questions, the lawyer for the defense (accused) side gets to ask the witness questions. This is called cross-examination.

Defense
After the prosecution has presented all of its witnesses and other evidence, the defense gets the chance to call any witnesses it wants to testify or to present any evidence it has to offer. This includes you, the person charged with the crime. However, you do not have to testify, and you do not have to call any witnesses at all. When it is time to decide if you are guilty, the court cannot use the fact you did not testify or call witnesses as proof of your guilt.

Guilty or innocent
After both sides have presented all their evidence, the court has to decide if you are guilty. Because being found guilty of a crime is a serious thing, the law requires the court to be very careful in making this decision. You can only be found guilty if the court believes you are guilty beyond a reasonable doubt. If the court thinks you probably are guilty, but it is not sure, it has to find you not guilty.

8. Guilty Pleas

You admit guilt (plead guilty) if you decide you do not want a trial and instead wish to tell the court you are guilty. Your plea may be part of an agreement between you and the prosecution as to what a fair sentence would be in your case. The court is not part of the deal, and no one can tell you what the judge will do. The prosecutor might also agree to drop some charges if you agree to plead guilty. Your lawyer can help you work out such an agreement with the prosecutor, if you are interested.

Pleading guilty

Once there is an agreement between you and the prosecution, the court will ask you questions to make sure you understand the decision you are making. The court will also ask your lawyer and the prosecutor some questions to make sure the guilty plea is justified. If the court believes you understand the decision you are making and the plea is justified, the court can then decide if it will accept the plea.

If the court accepts your guilty plea, the court will set your case for a disposition hearing (sentencing) just as it would if you were found guilty at a trial.

Pleading "no contest"

Sometimes, the prosecution and the court will allow you to plead "no contest." When you plead "no contest," you are not actually admitting you are guilty, but you are essentially saying, "I am not going to fight the fact the state says I am guilty." The court will ask questions to make sure you understand what you are doing and the plea is justified, just as the court does when a person pleads guilty. If the court accepts your "no contest" plea, it will find you guilty and then order a disposition (sentence), just as if you were found guilty at a trial.

Plea under advisement

There are instances when the prosecution and the court will allow you to plea under advisement. This means the court will allow your guilty plea with the understanding that the case will be dismissed after a specified period of time if you complete the agreed upon conditions. These conditions may include doing well in school, completing community service, paying restitution, and participating in programs designated by the court.

9. Sentencing/Disposition

Probation

The court has a lot of choices when it comes to making a disposition or sentencing order. The most common order is probation. When you are on probation, you are assigned a probation officer. You must check in with your probation officer when he tells you to. The probation officer might tell you to do this by phone or in person. Either the probation officer or the judge may order different conditions on your probation. A "condition" of your probation is something you have to do if you want to keep the probation. Conditions might include a curfew, attending school, drug tests, community service, or various types of counseling. A condition may also be something you cannot do, like drink alcohol or use drugs. There can be many types of conditions to fit your specific situation.

If you do not meet all the conditions of your probation, the court can find you in violation of your probation. If you are in violation of your probation, the court can issue a new disposition order. This new disposition order might be harsher than the probation and might even include being sent away to a secure facility. Committing a new crime is a clear violation of probation.

Out-of-home placement
If the court does not give you probation, the court might place you in boot camp, a secure facility, or some other program which it believes is necessary to protect the public and get you the treatment you need.

Warn and dismiss
Depending on the offense and your history with court, the court may warn you and dismiss the petition. In most cases where this is done, restitution is still required.

Restitution
Restitution is a very common condition of a sentence. Restitution means "paying back." If you plead guilty or are found guilty of doing some harm to a victim, or if your case is placed on the consent calendar, you may be required to do something to pay back your victim, either financially or perhaps emotionally (with an apology, for example). If there is no specific person who is the victim, you may be asked to do something to pay back the community.

How can I improve my chances for a good sentence?
The court makes a sentencing decision based on the information it knows about your charge and about you. The court will receive a report prepared by a probation officer before it decides on your sentence. The report will contain information about all aspects of your life: family, school, activities, other problems with the law, etc. The best way to improve your chances for a good sentence is to take care of things so the information the court hears about you is good. If you are staying out all night or skipping school, it will hurt your chances. You should also make sure the probation officer knows about the good things you do. If you are involved in positive activities (at school, in the community, or in your faith, for example), make sure the probation officer knows about them. Also, make sure your lawyer knows about them. It is important to give this information to your lawyer as early in the case as possible so she/he has time to gather this evidence before the disposition hearing. Your lawyer might want to speak with a teacher who can write a letter for you or a coach who might even come to let the judge know you are doing well at school or in the community.

How will this affect my parents?
Your parents will be notified of all court actions and may be ordered to participate in your disposition or sentencing. For example, your parents may have to pay for your lawyer or other costs from your case (like court costs or costs for your placement, if you are placed outside your home). Sometimes your parents will be ordered to help pay restitution to the victims, too, unless your parents can show the court paying this money would create significant problems for them and their other children.

Driver's license sanctions
If you are found guilty of certain crimes in which a motor vehicle is used, your driver's license will be

suspended or your ability to apply for a driver's license may be affected. You should be sure to discuss this matter with your lawyer whenever you are charged with a crime involving the use of a motor vehicle. If there is an important reason why you need to use a car, you should be sure to tell your lawyer the reason. There may be similar consequences for certain offenses involving drugs or alcohol. Even if your crime did not involve motor vehicles, drugs, or alcohol, the court has the power to restrict you from driving or even riding in cars as part of your probation.

Sex Offender Registry
If you are found guilty of certain offenses involving sexual conduct, your name will be listed on the Sex Offender Registry. Although you are a minor, if your name is placed on the Sex Offender Registry, it may remain there for the rest of your life. When you turn 18, this information becomes public and will be placed on the state's Sex Offender Registry website. You will also need to register with the police for as long as you are on the Registry. This is a very serious matter. It may affect your ability to work at certain jobs later in your life and also where you may live. You should definitely discuss this with your lawyer whenever you are charged with a sex offense.

10. Appeal

Appeal
If a referee hears your case, you can appeal his recommendation to a judge of the family division. A judge will review the case, and if the referee abused his discretion or the judge believes he/she would have made a different decision if presented with the same information, the Judge can change the findings or send it back to the referee for further hearing on the matter. If you wait more than seven days, the referee's recommendation becomes a final order that can be appealed to the court of appeals. If you believe the court made a legal mistake in your case, you have the right to ask the court of appeals to read the transcript (or record) of what happened at your trial and decide if the judge made any mistakes at your trial. Depending upon what kind of mistakes there were, if any, the court of appeals might send the case back for a new trial. If you want to appeal, you have to let the court and your lawyer know right away. If you wait more than 21 days after the disposition, you may lose your right to have the court of appeals even look at your case.

11. Your Record

Expungement/access to records
Except for certain kinds of records, family court records are open to the public. Court Rules require the court "expunge" or destroy its records relating to you when you turn 30, except for records for certain serious offenses and criminal traffic violations. This does not have any effect on related law enforcement records.

If you have only one juvenile adjudication (if you have been found guilty only one time as a juvenile), you may ask the court to "set aside" your record of adjudication. If the court sets aside the record, it is as if you were never found guilty. If the court sets aside your record, the state police will keep the record, but the record will not be available to the public. It will be available to courts and the police for certain limited purposes.

You cannot ask the court to set aside your record until your 24th birthday. You also cannot ask the court to set aside your record if you have a felony conviction as an adult or if your juvenile adjudication was for certain very serious offenses.

12. Your Lawyer

When you are charged as a juvenile, you have the same right to a lawyer as adults do when they are charged with crimes. This means:

- You can have a lawyer with you when the police question you while you are in custody;
- You can have a lawyer with you at court hearings in your case; and
- You can have a lawyer working for you throughout your case.

Your right to a lawyer is one of the first things the judge or referee should explain to you when your case goes to court. It is also one of the first things the police must tell you before they ask you questions when they place you in custody. This is part of the Miranda rights. Lots of people know the Miranda rights from TV and the movies, but they do not believe the police will actually get you a lawyer if you ask for one. The simple fact is they have no choice. If they cannot get you a lawyer when you ask for one, they cannot ask you any questions about your case. It is extremely important to always be truthful with your lawyer about yourself and what happened so he/she can best help you.

What if I can't afford a lawyer?

You can have a lawyer do these things for you even if you and your family do not have the money to pay for one. If you and your family do not have the money to pay for a lawyer, or if your parents do not hire a lawyer for you even though they can afford it, the court will make sure you have a lawyer if you ask for one.

If the court appoints a lawyer for you, the court will pay the lawyer for his/her work, but he/she does not work for the court. The lawyer works for you. The lawyer must meet with you and, ultimately, try to do the things you want him/her to do, as long as those things are legal. However, your parents may be required to pay back the court for some or all of the money the court has to pay the lawyer. Even though your parents might have to pay, you are the one who has the right to decide to have a lawyer or not, and it is you–not your parents–who decides what the lawyer should try to do in your case.

How can a lawyer help?

A lawyer can do many things for a client in a juvenile case. Generally, lawyers who are appointed to represent juveniles have experience working on those kinds of cases. They know what judges expect and can provide advice about how they think the case will go, depending upon the different choices the client has to make. Specifically, your lawyer can:

- meet with you to find out your side of the case;
- explain to you what the charges against you really mean and how the prosecutor might try to prove them;
- explain to you what arguments there might be for your side if you choose to go to trial;
- question the witnesses from the other side to get information that is helpful to your case;
- find witnesses for you and make those witnesses come to court even if they do not want to;

- make arguments to the court which point out the prosecutor should not be allowed to use certain evidence;
- learn things about you which might help convince the prosecutor to drop or lower the charges;
- learn things about you which might convince the court to give you a lighter sentence.

It is a lawyer's job to do all of the things listed above even if the client may be guilty.

How can I help my lawyer?
A lawyer needs the cooperation of his/her client in order to present the strongest case. This means it is extremely important for you to communicate with your lawyer. It is much harder for your lawyer to represent you well if you do not provide him/her with accurate and complete information as early as possible.

This might mean meeting in the lawyer's office or returning the lawyer's phone calls. It might mean getting the lawyer the names and telephone numbers of witnesses or people, such as teachers, who can help the lawyer give the court important information about you or about your case.

It means giving your lawyer truthful information about yourself and what happened, even if you think what you say might hurt you.

Is what I tell my lawyer confidential?
What you say to your lawyer when you are alone is confidential. Except in very rare circumstances, the lawyer is not allowed to tell anyone what you said unless you agree he/she should. It also means if someone else (even a parent) is in the room when you meet with your lawyer, what you say may not be confidential. Whether a lawyer is being paid by the court or by your parents, the lawyer cannot share your secrets with anyone without your permission.

Section Three: Guide for Parents

1. What Is Child Neglect?

There are two types of neglect.

- Failure to provide necessary items for your child (things like food, clothing, and shelter).
- Failure to protect your child. For example, if a mother knows or suspects her boyfriend is sexually abusing her daughter, she has a legal duty to take steps to protect her daughter. If she does not do so, she has neglected her daughter.

2. What Is Child Abuse?

A child is abused when he/she is harmed or threatened with harm by any person legally responsible for his/her care (e.g., a parent or legal guardian, a teacher, teacher's aide, or member of the clergy). Because Michigan law defines abuse to include the threat of abuse, a child does not actually have to have already suffered an injury to be considered abused. Types of abuse include:

• **Physical abuse**–this includes both serious, intentional injuries such as hitting a child in the face and causing a black eye or breaking a child's bone. It also includes the use of physical punishment that results in injuries, for example, when a parent spanks a child with a belt, a hanger, or an extension cord and leaves welt marks or bruises on the child's body.

• **Emotional/psychological abuse**–this includes injuries that are not physical and leave no marks on the child's body. The injury from emotional/psychological abuse is to the child's sense of well-being. This form of abuse typically involves a pattern of behavior that communicates to the child that he/she is worthless, unloved, or unwanted. Some examples of emotional/psychological abuse are repeatedly calling a child a degrading name, repeatedly swearing at a child, repeated failure to provide necessary nurturance (e.g., leaving an infant unattended in a crib for many hours at a time), or terrorizing a child (e.g., locking the child in a closet).

• **Sexual abuse**–this includes touching the child's private parts or having the child touch the adult's private parts when that touching is done to provide the adult with sexual gratification. It also includes any sexual act that penetrates the child's body or that causes a part of the child's body to penetrate the adult's body. Even if someone else is involved in the acts of sexual abuse, the parent/guardian may be held legally responsible because of his/her failure to protect the child.

• **Sexual exploitation**–this includes such things as photographing a child while naked and in a sexually suggestive pose or encouraging a minor to be involved in making a pornographic picture or videotape.

3. Reporting Abuse/Neglect

How does child abuse or neglect get reported?
Child abuse or neglect gets reported when someone calls the Children's Protective Services (CPS) Hotline or the police. Anyone, including a child, can make a report if he believes abuse or neglect has taken place. The identity of the person making the report is confidential and will not be revealed unless that person agrees to identify himself/herself, or a court orders the person to identify himself/herself.

Under Michigan law, people in certain jobs must call in and make a report any time they suspect a child has been abused or neglected. These "mandatory reporters" are:

- physicians
- physician's assistants
- dentists
- registered dental hygienists
- medical examiners
- nurses
- persons licensed to provide emergency medical care
- audiologists
- psychologists
- marriage and family therapists
- licensed professional counselors
- certified social workers
- social workers
- social work technicians
- school administrators
- school counselors or teachers
- law enforcement officers
- members of the clergy
- regulated childcare providers

To whom are reports made?

Reports of suspected child abuse or neglect are made to Children's Protective Services (CPS), which is an office within the Michigan Department of Human Services (DHS), or the police. For the phone number of your local Children's Protective Services office, please consult the Emergency Numbers section of your local phone book and look for the Department of Human Services.

4. Investigating Claims

What will Children's Protective Services do when it receives a report?

The first thing Children's Protective Services (CPS) does is decides if the report is serious enough that CPS should investigate the report. If not, the report is "screened out" from further investigation or consideration. If CPS thinks they should investigate the case, they may talk to you, your son or daughter, and to people who know about how you treat your kids (for example, schoolteachers or your doctor).

What will CPS do if they think I have abused or neglected my child?

CPS can do a number of things. Most often, CPS tries to keep you and your children together by asking you to participate in an in-home services program. A program that is often used is Families First. These programs are designed to provide you and your children the specific services you need to help you stay together. For example, if you have a problem with substance abuse, the program will help you get counseling and treatment for this problem. If you need help paying bills, they may help with emergency funds or with locating services in your com-

munity that can help you with this. If CPS thinks your child is in immediate danger, they can file a petition with the court. A petition is the formal document by which the agency asks the court to take jurisdiction over the case.

Can CPS take my kids away from me?
CPS cannot take away your children unless they have a court order to do so. To get the court order, there usually has to be a court hearing. In a few counties in Michigan, CPS can get a court order before having a hearing. If they do this, the court must hold a hearing (called a preliminary hearing) within 24 hours or on the next business day.

Can a police officer or doctor take my child into protective custody?
Yes. If a police officer or a doctor thinks your child's welfare is in danger, she/he can take your child into protective custody without a court order. This means that the child will be kept at a hospital or placed in a local juvenile home or other safe place until there is a court hearing. As with CPS, if a police officer or doctor does this, the court will have to hold a hearing (called a preliminary hearing) within 24 hours or on the next business day.

5. Court Process

What is a petition?
A petition is the formal document by which the agency asks the court to take jurisdiction over the case.

Will I be able to go to court hearings?
Yes. The court must tell you about any court hearings involving your child.

The Preliminary Hearing: What will happen at the preliminary hearing?
At the preliminary hearing, the court has to decide whether there is enough evidence to permit Children's Protective Services (CPS) to go ahead with its petition. If the court permits CPS to go ahead with the petition, the court must then decide whether your child can remain safely with you or whether she/he should be placed into foster care. The court might put conditions on you in order for you to keep your child in your home. For example, if the alleged neglect is that a mother has let her boyfriend sexually abuse her daughter, the court may order the mother to not allow the boyfriend in her home.

What happens if my child is placed into foster care?
If the court approves the petition, the court may take action to protect the child by temporarily placing the child in a foster home. If the court orders your child placed into foster care, then the court must hold a hearing to decide whether you actually did something (or failed to do something that you should have done) to harm your child. This hearing is called a trial or an adjudication hearing.

Can my child be placed with relatives instead of in a foster home?
Michigan law requires that your relatives be considered for possible placement. Before or shortly after your child is placed with relatives, the foster care agency must do a background check and a

home study on the relative who wants to care for your child. If your relative has a CPS history or if he/she has been convicted of certain crimes, he/she will not be able to provide care for your child. It is very important that you tell the foster care worker, your lawyer, and the court the names, addresses, and phone numbers of any relatives that you would like to have care for your child.

In some counties, the court will appoint a relative as the child's legal guardian and then may dismiss the child abuse/neglect case.

If my child is placed in foster care, will I be able to visit my child?
Parents are allowed "parenting time" with their children at least once every seven days. The court may stop the "parenting time" if it finds that this contact is harmful to the child. If a termination petition is filed (see Terminating Parental Rights section), the court must stop "parenting time" unless it finds that it will not be harmful to the child.

The pretrial: What happens after the preliminary hearing?
The court's decision to let CPS go ahead with its petition is not a final decision that you have abused or neglected your child. The final decision is made later.

The next hearing after the preliminary hearing is the pretrial. At that hearing, the court will ask if there is going to be a trial. Often, the government and the parent reach an agreement at the pretrial. That agreement may involve an admission by the parent to some allegation of abuse or neglect. It may involve a "no contest" plea in which the parent does not admit any allegation but agrees not to fight the case at a trial. If there is going to be either an admission or a no contest plea, the court will ask questions of the parent and lawyers and decide if the agreement is acceptable.

If there is no agreement, a trial date will be set. The parent has a right to have a jury decide the question of abuse or neglect at trial. However, the parent must tell the court within 14 days of the date the court tells the parent about the right. If the parent does not ask for a jury within the 14 days, the right is given up.

The trial: What rights will I have at a trial?
If there is going to be a trial, you have a right to be represented by your lawyer. You have the right to hear from the witnesses against you, such as the CPS worker, the police officer, or a doctor. You will have the right to present witnesses on your side and to tell your side of the case. If a witness who would be helpful to you does not want to cooperate or can't arrange to leave work for the hearing, you can subpoena him/her. A subpoena is a court order requiring a person to attend the hearing and to give testimony.

Can I be called as a witness?
Typically, yes. A child protective proceeding is a civil proceeding, and the prosecuting attorney may call you as a witness or you may testify on your own behalf, if you wish to do so. However, if you have been charged with a crime relating to how you have treated your child, you have the right not to testify. The decision whether or not to testify is very important, and you should talk with your lawyer before deciding how to handle this.

What will happen if the court decides that I abused or neglected my child?
In most cases, parents are given the opportunity to take steps to regain custody of their children. Typically, the agency providing foster care for your child will have the responsibility to develop a treatment plan to help you get your child back. Treatment plans may include requirements such as:

- You go to counseling, parenting classes, or drug treatment;
- You visit your child regularly;
- You stay in touch with the worker assigned to your case.

While you are doing this, the court must hold a hearing every three months to monitor your progress toward completing your treatment plan.

Appealing the abuse or neglect decision: Can I appeal the decision that I abused or neglected my child?
In Michigan, a parent has a *right* to appeal to the Michigan Court of Appeals within 14 days after entry of an order terminating his/her parental rights.

After the Court of Appeals has decided your case, you may be able to appeal to the Michigan Supreme Court, although you must ask the Supreme Court's permission to do so.

What if I do not appeal?
If the time for filing an appeal of right has expired, a parent may file an application for *leave to appeal*, where the parent must first ask permission to appeal.

6. Getting Your Child Back

How can I get my child back?
Even if the court finds you abused or neglected your child, in most cases, parents are given a chance to get their children back. You and the agency will have a chance to develop a treatment plan (sometimes called a parent-agency agreement) in order to have your child returned to your custody. The court either will approve the plan or make some changes to it before approving the plan. To get your child back, you must follow this treatment plan. The court will hold a hearing every three months to check whether you are following your treatment plan.

How long will I have to get my child back?
The answer to this question depends on the facts of your particular case. The court may order your child be returned to your care at any one of the three-month hearings if the court thinks your child will be safe and you can provide the necessary care for your child. Generally, you will have up to one year to complete the treatment plan and to show the court you are able to take care of your child and provide a safe home for him/her.

What happens after one year?
If your child is still in foster care after one year, the court must hold what is called a permanency planning hearing. At a permanency planning hearing, the court will decide if your child should be returned to you.If the court decides your child should not be returned to you, then the court may order the foster care agency to file a petition to terminate your parental rights.

7. Terminating Parental Rights

What is a petition to terminate parental rights?
A petition to terminate parental rights is a paper filed with the court asking it to end your rights and giving the reasons. Under Michigan law, there are a number of different reasons a court could end your rights as a parent. A petition must list at least one of these grounds but can list more than one.

What will happen after the petition is filed?
After a petition to terminate parental rights is filed with the court, the court will hold a hearing. At the hearing, the Department of Human Services (DHS) must prove by clear and convincing evidence there are grounds to terminate your parental rights. If DHS can't prove its case, the court must deny the petition. If DHS can prove any ground (it only needs to prove one ground), then the court must terminate your parental rights unless the court finds it is clearly not in your child's best interest to do so.

What happens if the court terminates my rights?
If the court terminates your parental rights to your child, you will no longer have any right to regain custody of your child or to make decisions regarding your child. Your rights as your child's parent are ended.

What will happen to my child if my rights are terminated?
If your rights are terminated, the State of Michigan or the agency responsible for your child must seek a permanent plan for your child. For most children, the permanent plan is for the child to be adopted. For some children–usually older children–the plan may be something else.

Will I be able to see my child?
You will no longer have a right to see your child if your rights are terminated. If your child is adopted, the decision as to whether you can see your child belongs to the adoptive parent. The court cannot order the adoptive parent to allow you to visit.

Can I appeal the court's decision?
Michigan law gives you the right to appeal (or fight) a decision to terminate your parental rights to the Michigan court of appeals. After the court of appeals has ruled on your case, you may be able to appeal further, but it will depend on the circumstances of your case. You do not have a right to appeal the Michigan Court of Appeals decision, but the Michigan Supreme Court or the United States Supreme Court may allow you to appeal if they think your case has important legal issues.

How long will an appeal take?
An appeal to the Michigan Court of Appeals will take about a year. If your case goes beyond that, it may take several years.

8. Your Lawyer

If I am accused of child abuse or neglect, will I have a lawyer?
Any time Children's Protective Services (CPS) becomes involved with your family, you can consult with a lawyer, if you can afford one. Most times, child protection cases do not involve court action because CPS and the parents or the family are able to work out an agreement.

Any time CPS takes court action, you have a right to a lawyer. If you can't afford to hire a lawyer, you need to ask the court to appoint one to represent you. If you ask the court for a lawyer, the court must appoint a lawyer for you. You have a right to have your lawyer with you at all court hearings.

Will it cost me anything if the court appoints me a lawyer?
It may, depending on your income. The court will usually make you fill out a form reporting your income. If you have enough income, the court can charge you a fee for the lawyer's services.

Will my child have a lawyer?
The court will appoint a legal representative for a child who is involved in protective proceedings. This representative is called a "lawyer-guardian ad litem." He/she must be a lawyer, and as a "guardian ad litem," he/she must represent to the court what he/she believes is the best for your child. If your child and the lawyer-guardian ad litem disagree about what is best for your child, the court may appoint a second lawyer to represent what your child wants rather than what the lawyer-guardian ad litem thinks is best. You may not hire a lawyer to represent your child.

9. Guardianships

What is a legal guardian?
A guardian is a person who is legally responsible for the care of and decisions about someone else. The law generally provides a minor child's parents are the child's legal guardians. When a parent cannot fulfill her/his responsibilities as the legal guardian of her/his own child, the court may appoint another adult to be the child's legal guardian.

Who may ask the court to appoint a legal guardian?
Under Michigan law, any "person interested in the welfare" of a child may ask the court to appoint a legal guardian.

Can my child ask the court to appoint a guardian?
Michigan law allows a minor who is 14 years old or older to ask the court to appoint a legal guardian for her/him. However, the court will have to decide whether it is best for your child to have someone other than a parent be the child's guardian. If the court decides your child should have someone else as a guardian, and your child has asked the court to appoint a specific person as guardian, the court must appoint the specified person unless the court finds doing so is not in your child's best interests.

What effect does the appointment of a legal guardian for a child have on my rights as a parent?
When a legal guardian is appointed for your child, your rights as a parent are suspended. This means the legal guardian is legally responsible for taking care of your child and for making decisions regarding the child. Your parental rights are not permanently ended, however. Also, if the guardianship is a limited guardianship (see explanation), you and the legal guardian may agree to divide some rights and duties between the two of you. For example, the plan may include a requirement that the guardian notify you about all medical appointments for the child and give you the right or duty to attend these appointments.

Is there more than one type of legal guardianship?
In Michigan there are two types of legal guardianships. The first is a limited guardianship. A limited guardianship can be established if the parent or parents with legal custody agree to the appointment. The second type is a regular (sometimes referred to as a full) legal guardianship.

How is a limited guardianship different from a regular or full guardianship?
A parent must agree to a limited guardianship. The guardian, not the parent, will have the ability to make decisions for the child. Unlike a full guardianship, before a limited guardianship may be put into place, the parent and the proposed guardian must agree on a limited guardianship placement plan.

What is in a limited guardianship placement plan?
The law requires a limited guardianship placement plan (the plan) contain several pieces of information. First, the plan must explain why the parents and the proposed guardian want the court to appoint a guardian. For example, the plan might say the parent is going to jail for six months and requires the child's grandmother to be appointed legal guardian. Second, the plan must contain a schedule for contact between the child and the parent "sufficient to maintain a parent and child relationship." Third, the plan must say how much money the parent will pay the proposed guardian to support the child. Finally, the plan must contain any additional agreements between the parent and the proposed guardian. For example, if the guardian is to have responsibility for the child because the parent is sick, the plan may say the parent can regain custody of the child when the parent has recovered from her illness.

If I agree to a limited guardianship, can the court change the plan that the proposed guardian and I worked out?
Yes. Under Michigan law, the judge must do what is best for the child. For this reason, the court may add, eliminate, or change some or all of the agreements between you and the proposed guardian. For example, if the guardianship is being put in place because the parent is going to jail for a year, the court can require the parent have housing suitable for himself/herself and the child before regaining custody.

Can the guardian and I change the plan after the guardianship is put into effect?
Yes, the parent and the guardian may change the plan as long as both of them and the court agree to the change. For example, if the guardianship is put into place at a time when you do not have a

job and then you get a job, the plan could increase the amount of child support you have to pay or require you provide health insurance for the child.

How does a regular or full guardianship differ from a limited guardianship?
In a regular guardianship, there is no placement plan or agreements between you and the guardian. The guardian has full authority over the child, including the authority to let the child be adopted or get married. The guardian and parent(s) do not have to agree to the terms of the guardianship. The limited guardianship does not grant such power. Also, a parent or parents may file a petition to terminate the limited guardianship at any time.

10. Monitoring Guardianships

How will the court monitor the guardianship?
The court that approved the guardianship may review the guardianship as frequently as the judge thinks is necessary. When a child under six is placed into a legal guardianship, the court must review the guardianship at least one time each year. In addition, the guardian will have to submit an annual report to court about the condition of the child.

11. Terminating Guardianships

How can I get custody of my child back from the guardian?
You will need to file a petition to terminate the guardianship, and the court will need to hold a hearing. At the hearing, the court must decide whether or not to set aside the guardianship.

How will the judge decide whether to end the guardianship?
The judge must decide whether ending the guardianship is in the child's best interests. If the guardianship is a limited guardianship and the judge believes you have "substantially complied" with the limited guardianship placement plan put in place at the time the guardianship was established, the judge must set the guardianship aside. If the guardianship is "full" guardianship, then the judge must only decide if it is best for the child to end the guardianship.

How does the judge decide what is in the best interests of my child?
Michigan law says the judge must consider 11 specific factors. These include things such as the mental and physical health of the guardian and the parent, how the child is doing in the home, in school and in the community, as well as the child's opinion about where she/he wants to live. The judge also may consider almost any information the judge believes is helpful in order to make the best decision.

Can my child ask the court to terminate the guardianship?
If your child is 14 or older, she/he may ask the court to remove the guardian. In addition, she/he could ask the court permission to go back to live with you or appoint a different guardian. For more information or to obtain forms to begin a guardianship proceeding, contact your county's family court.

SBM

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