



Home Away from Home

A guide to minor guardianships in Michigan

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FAST FACTS

Minor guardianships are full or limited and can be temporary.

A temporary guardian may be appointed during the pendency of a guardianship petition or to replace another guardian.

Venue, notice, service, legal counsel for the minor, form and content of the petition, guardians *ad litem*, and the hearing are all parts of securing guardianships.

Guardians have several duties and rights.

Disputed guardianships are similar to custody contests.

Any person interested in the welfare of a minor may petition for the appointment of a guardian. MCLA 700.5204(1), MSA 27.5424[1]; MCR 5.762(B). The decision to proceed with a guardianship is a complex one. As an attorney, you will need to assess the reason for the guardianship. There is an increasing trend to initiate guardianships instead of neglect or abuse proceedings. This is a concerted effort to engage qualified third parties (preferably relatives) to immediately protect children in need.

In general, a guardian is empowered to make those decisions a parent could make. Minor guardianships are either full or limited. A full guardian has standing to file a custody suit in the family division of the circuit court. A limited guardian does not have this standing unless the parent has failed to substantially comply with a limited guardianship placement plan. A limited guardian may not consent to marriage, adoption, or a release for adoption.

A guardianship may not be necessary, since a parent or guardian may execute a power of attorney to have someone make decisions for a minor for up to six months. MCLA 700.5103, MSA 27.5423.

FULL GUARDIANSHIP

A full guardian may be appointed for a minor if one of the following situations exists:

- 1) The parental rights of both parents or of the surviving parent have been terminated or suspended by court order, a judgment of divorce or separate maintenance, death, judicial determination of mental incompetency, a disappearance, or confinement in a place of detention. MCLA 700.5204(2)(a), MSA 27.5424[2][a].
- 2) The parent or parents have permitted the minor to reside with another person and have not provided that person with legal authority to care for the minor. MCLA 700.5204(2)(b).
- 3) All of the following are true: The minor's biological parents have never been married to one another, the custodial parent dies or is missing and the other parent has not been granted legal custody under court order, and the person whom the petition asks to be appointed guardian is related to the minor within the fifth degree by marriage, blood, or adoption. MCLA 700.5204(2)(c), MSA 27.5424[2][c].

LIMITED GUARDIANSHIPS

A limited guardianship may only be established when the petitioning parent with custody agrees. MCLA 700.5205,5206, MSA 27.5424(1)

An approved limited guardianship placement plan developed by the parents and the proposed guardian is required. MCLA 700.5205(2), MSA 27.5424(1). A limited guardian may not consent to the adoption of the minor, to the release of the minor for adoption, or to the marriage of the minor. Otherwise the duties and liabilities of a full guardian apply to limited guardians except as modified by the limited guardianship placement plan. MCLA 700.5215, MSA 27.5431.

A limited guardian may petition to be appointed a full guardian, except that the "petition shall not be based on suspension of parental rights by the order that appointed that person the limited guardian of that minor." MCLA 700.5204(3), MSA 27.5424[3]. Circumstances allowing for such a change of appointment are death, incapacity, or incarceration of a parent.



The parties should take care when drafting the limited guardianship placement plan. If the parent seeks to end the guardianship, the guardian seeks custody, or a petition for the termination of parental rights is sought, the parents' compliance or noncompliance with the plan can be critical.

A limited guardianship placement plan that has been approved by the court may be modified by the parties with the court's approval. MCLA 700.5206(1)(2), MSA 27.5424(1)(4).

Most important, the petition contains an acknowledgment by the parent that, if the parent fails without good cause to follow the plan, parental rights may be terminated in a proceeding pursuant to the Juvenile Code, MCLA 712A.1-32, MSA 27.3178(598.1)-(598.30b). A limited guardian may also be held accountable for failure to comply with the placement plan.

TEMPORARY GUARDIANSHIPS

A temporary guardian may be appointed for a minor during the pendency of a guardianship proceeding or to replace a guardian who is not performing



properly. MCLA 5213(3), MCR 5.763(D)(1), MCR 5.763(D)(2). A temporary appointment may not exceed six months. MCLA 700.5213(3), MSA 27.5427[3]; MCR 5.763(C)(2). If the minor is 14 years of age or older, the court shall appoint the person nominated by the minor unless the court finds that the minor's nominee would not serve the welfare of the minor.

ESTABLISHING A GUARDIANSHIP

A guardianship may be established by the guardian named in a will filing an acceptance of trust following the death of a parent. MCLA 5202(3), MCLA 700.5202(2), MSA 27.5422. The testamentary guardian is a full guardian. *Ramon v Pena (In re Ramon)*, 208 Mich App 610, 528 NW2d 831 (1995). If the minor is 14 or older and has no objection, the nomination will be approved. MCLA 5203, MSA 27.5423. The minor may object either before the appointment is accepted or within 28 days after acceptance. The procedure is to file the guardian's acceptance in the court in which a nominating instrument is probated or "under a will probated in another state which is the testator's domicile." MCLA 700.5202, MSA 27.5422.

The court will consider the rights of the surviving noncustodial parent even if the custodial parent nominates a third party with whom the child is living at the time of the custodial parent's death. MCLA 700.5203, MSA 27.5423; *Porter v Overton*, 214 Mich App 95 542 NW2d 288 (1995).

A testamentary appointment under an informally probated will terminates if the will is later denied probate in a formal proceeding. By accepting an appointment, a guardian submits personally to the jurisdiction of the court in

any proceeding relating to the guardianship. MCLA 700.5217, MSA 27.5428.

A guardian's authority and responsibility terminates on death, resignation, or removal of the guardian or on the minor's death, adoption, marriage, emancipation, or attainment of majority. MCLA 700.5217, MSA 27.5433. However, termination does not affect the guardian's liability for prior acts or the guardian's obligation to account for the funds and assets of a ward. The resignation of a guardian is not effective until approved by the court.

Venue

Venue for minor guardianship proceedings lies in the county where the minor lives or is present. MCLA 700.5211, MSA 27.5425. Venue may be changed by the court or by the motion of a party for the convenience of the parties, the witnesses, or the attorneys. MCR 5.221(A). The probate court continues to have jurisdiction over minor guardianships. MCLA 600.841, MSA 27A.841. Under recent legislation, however, the family court now has ancillary jurisdiction. MCLA 600.1021(2)(a), MSA 27A.1021[2][a]. Appeals concerning minor guardianships are heard in the circuit court. MCR 4.801(C). Ultimate appellate review is at the court of appeals. MCR 5.801(F).

Notice

In addition to those interested persons defined in MCR 5.125(A)(B), the petitioner must give notice of the hearing on the petition to

- the minor, if 14 years of age or older
- the person having principal care and custody of the minor when the petition is filed
- the person having principal care and custody of the minor during the 63 days before the petition was filed
- the parents of the minor or, if neither parent is living, the adult next of kin to the minor

The court may, for “good cause,” MCR 5.763(B), shorten or eliminate notices of hearing.

Service

Personal service must be made at least 7 days before the hearing date, and service by mail must be made at least 14 days before the hearing date. MCR 5.108(A), (B). These time limits apply even when the statutory provisions state otherwise. MCR 5.108(A). Notice of any proceeding involving the guardianship need generally only be mailed by first class mail. However, if the person who is the subject of the petition is 14 years of age or older, notice of the initial hearing must be personally served unless another method of service is specified by the court.

The court for good cause, on *ex parte* petition, may order substituted service. MCR 5.105(A)(4). Service may be avoided if a waiver and consent form (PC 561) executed by all interested parties is filed. MCR 5.104(B)(2), (4). When there is a conflict with the statute and the court rule, the court rule governs.

Legal Counsel for the Minor

MCLA 700.5213(4) provides for the appointment of a lawyer-guardian *ad litem* to represent a minor in a guardianship proceeding if the court determines that the minor’s interest are inadequately represented. A lawyer-guardian *ad litem* represents the minor and must give consideration to the minor’s preference if the minor is 14 years of age or older. A written report or recommendation may be filed by the lawyer-guardian *ad litem*, which is not admissible unless the parties stipulate.

The costs and reasonable fees of a lawyer-guardian *ad litem* maybe assessed against one or more of the parties or against the money allocated from marriage license fees for family counseling services under MCL 551.103. MSA 25.33. A lawyer-guardian *ad litem* may not be paid a fee unless approved by the court.

Form and Content of the Petition

Use of the State Court Administrative Office approved form is required. The petition form itself is a useful tool for a client interview. (PC 650, 651). It will assist the attorney in collecting the required information. Each form gives the statutory and court rule references on which it is based. A petition concerning a minor who is subject to prior continuing jurisdiction of another court must contain allegations concerning prior proceedings. MCR 5.112, Notice to Prior Court of Proceedings Affecting Minor (MC 28) should be used.

Appointing a Guardian Ad Litem

A guardian *ad litem* may be appointed when the court considers it necessary. MCLA 700.24, MSA 27.5024, MCR 5.201(A)(1); (PC 641, 642). If the parent of the proposed ward is also a minor, MCR 5.764(A)(2) provides that “the court shall appoint a guardian *ad litem* to represent the unemancipated minor parent. A limited guardianship placement is not binding on the minor parent until consented to by the guardian *ad litem*.” A minor parent who is married is an emancipated minor. MCLA 551.251, 722.4(2)(a), MSA 25.61, MSA 25.244(4)[2][a].

The Hearing

A jury trial is not provided for in minor guardianships. At the hearing, the court satisfies itself that a qualified person seeks the appointment, that venue is proper, and that the required notices have been given. MCLA 700.5204; MSA 27.5424 or MCLA 700.5205, 5206; MSA 27.5424(1). If all the procedural requirements have been met, the court will make the appointment if it will serve the welfare of the minor. MCLA 700.5213, MSA 27.5427(2).



The guardian of a minor has decision making authority over the minor and the guardian stands in a confidential position because he or she is standing in the place of a parent.

The court will usually inquire about the circumstances that led to the petition being filed. The court may receive and consider all relevant and material evidence, to the extent of its probative value, even though such evidence may not be admissible under the Michigan Rules of Evidence. MCR 5.764(C)(1). Interested parties are allowed to examine and comment on written reports. Cross examination of the reports’ authors is allowed MCR 5.764(C)(2). Only the assertion of an attorney-client privilege may prevent the receipt and use of materials prepared pursuant to a court ordered interview, examination, or course of treatment. MCR 5.764(C)(3).

The petitioner must present proof by a preponderance of the evidence that a statutory basis for the guardianship exists. The court may order reasonable

support from and parenting time with the minor's parents. MCLA 700.5204(5), MSA 27.5424[5].

WHAT DOES IT MEAN TO BE A GUARDIAN?

The guardian of a minor has decision making authority over the minor and the guardian is in a confidential position because he or she is standing in the place of a parent. A guardian is required to file a written report annually within 56 days after the anniversary of the appointment and at other times as the court may order. MCR 5.769(A). The report shall detail the condition of the ward, any medical care provided, and what reason, if any, exists for the continuation of the guardianship. MCLA 700.5215(f). The court may require the guardian to file a verified inventory within 56 days after appointment if it is determined that the ward has sufficient assets. MCR 5.769(B)(1). The inventory must be served on all interested parties and a proof of service filed. MCR 5.769(B)(2).

The guardian may be suspended, removed, or be subject to liability for breaching his or her fiduciary duty for failing to exercise reasonable care. MCR 5.717(D). A guardian may also be suspended or removed for failing to file an annual report on the ward's condition in a timely manner. A guardian who is suspended may be reinstated only upon petition and submitting the report.

The guardian of a minor is not legally required to support the child with the guardian's own funds. MCLA 700.5215, MSA 27.5431[1]. Support owed on behalf of the minor may be received by the guardian. If payable through the friend of the court, copies of the letters of guardianship are usually sufficient to direct payment to the guardian having physical custody of the minor. Those receiving money or property on a minor's behalf, including guardians, are obligated to apply the money to the minor's care and education. Any monies received in excess of that needed for the minor's care and education must be conserved and, if a conservator has been appointed, must be paid at least annually to the conservator, or to the minor at age 18. Compensation for the guardian's services must be approved by the court or by a conservator other than the guardian.

A guardian may initiate child support proceedings. MCLA 700.5215(b), MSA 27.5431[1][b]. The guardian must take reasonable care of the minor's personal effects and begin protective proceedings if they are necessary to protect a minor's property. MCLA 700.5215(a), MSA 27.5431[1][a]. A guardian has the power to receive money or property on behalf of the child. MCLA 700.5215(b), MSA 27.5403. However, a person paying or delivering assets pursuant to statute is not responsible for seeing that they are applied properly. MCLA 700.3918(4)(1)(b), MSA 27.5403, .54031[1][b].

A guardian must facilitate the ward's education. MCLA 700.5215(c), MSA 27.5431. A related Michigan Supreme Court case recently held that a school district policy requiring a child to be living with a legal guardian to qualify for residency violated the school code, *Feaster v Portage Pub Sch*, 451 Mich 351, 357, 547 NW2d 328 (1996). A child placed in the home of relatives to secure a suitable home for the child, and not for an educational purpose shall be considered a resident of that school district. MCLA 380.1148, MSA 15.41148.

MCLA 700.5215(c), MSA 27.5431[1][c] provides, "The guardian shall . . . authorize medical or other professional care, treatment, or advice." If the ward is injured as a result of the negligence or acts of third parties, the guardian is not liable unless it would have been illegal for a parent to have consented.



Consent to Marriage, Adoption, or Release for Adoption

A full guardian may consent to the marriage of a minor ward. MCLA 700.5215(d)(e), MSA 27.5431(1)(c). The ward must be at least 16 years old. MCLA 551.103, MSA 25.33. A guardian should consider the age and emotional maturity of the minor and the prospective spouse and the opinion of the ward's biological parents if parental rights have not been terminated.

The adoption or the release of a minor ward for adoption may be consented to by a full guardian subject to the conditions and restrictions of the Adoption Code. MCLA 710.21, MSA 27.3178(855.21), and MCLA 700.5215(d)(e), MSA 27.5431[1][c].

Compensation Claim for Burial Expense

If a minor dies while under a guardianship, no conservator has been appointed, and the guardian has possession of any of the deceased minor's money, the court, on the petition of the guardian, may hear a claim for burial expenses or any other

claim the court deems advisable. MCLA 700.5216, MSA 27.5431[2].

Reviews

The guardianship review process is designed to assist the court in monitoring the minor's welfare, enabling the court to take prompt action to protect the minor. The court must review a guardianship annually if the minor is under six years of age and may review any guardianship it considers necessary. MCLA 700.5207, MSA 27.5424(2)[1]. The annual review must begin within 63 days of the anniversary date of the qualifications of the guardian. MCR 5.764(D).

The court may order the Family Independence Agency or an employee or agent of the court to conduct an investigation and file a written report of the investigation within 28 days of such an appointment. MCLA 700.5207(2), MSA 27.5424(2), MCR 5.764(d)(2). The report must include a recommendation on whether the guardianship should be continued or modified and whether a hearing should be scheduled. After an informal review of the report, the court must enter an order continuing the guardianship or set a date for a hearing to be held within 28 days.

CONTESTED PROCEEDINGS

In minor guardianships, contests are most likely to arise after the guardianship is in place, such as when the parent files a petition to terminate the guardianship. The guardian may be convinced that continuing the guardianship is in the minor's best interests. The dispute that follows is similar to a custody dispute. A contest can occur at the inception of the guardianship, such as when the parents object, or competing parties seek the appointment. For the most part, minor guardianships initially have some parental involvement, that is, there is agreement between the custodial parents and the proposed guardian, or at least no objection by the parents.

The Initial Guardianship Appointment

A limited guardianship, by definition, may be established only if the custodial parent(s) consent. MCLA 700.5205, MSA 27.15205. The consent of a noncustodial parent is not needed for a limited guardianship. If the noncustodial parent objects to the guardianship or to the terms of the plan, the remedy is to bring a circuit court custody petition. However, the noncustodial parent may object to the guardianship petition on the ground that the proposed guardian is not an appropriate choice. While it is the custodial parent's right to nominate a guardian, the court has the ultimate say in the appointment based on suitability.

Recent amendment allows the appointment of a guardian even when the parents appear at the hearing and indicate that they want the minor to live with them and are no longer permitting the minor to stay with the third party as long as the criteria existed when the petition was filed. MCLA 700.5204(2)(d), MSA 27.5204(2).

If the minor nominates his or her own guardian, the court must appoint the nominated person unless it finds that the appointment is contrary to the minor's welfare. MCLA 700.5212, MSA 27.15212. Notwithstanding a parent's testamentary or other written appointment of a guardian for the minor, the minor (age 14 or older) may prevent the appointment by filing an objection before the acceptance or within 28 days after acceptance. The court may appoint the nominated guardian or another suitable guardian. MCLA 700.5203, MSA 27.15203.



Another contested situation in the appointment proceedings is that of competing guardianship petitions when both parents are deceased. The effective appointment by the last parent to die has priority. MCLA 700.5202(2), MSA 27.15202[2].

An interested person objecting to a petition may generally file his or her own petition and schedule a hearing or may object to a pending petition either orally at the hearing or by filing and serving an objection. MCR 5.119(A), (B).

Whether the guardianship is contested or not, the court makes the appointment only if it is satisfied that the minor's welfare will be served. MCLA 700.5212, 700.5213; MSA 27.15212, 27.15213. If the court does not appoint a guardian, the court may dismiss the petition and make any other disposition that will serve the welfare of the minor, such as a referral to the Family Independence Agency.

TERMINATION OR MODIFICATION

Termination or modification of the guardianship or discharge of the guardian may occur as a result of the guardian's petition to resign (MCLA 700.5219(1), MSA 27.15219[1]); a parent's petition for termination of the guardianship (MCLA 700.5208, MSA 27.15208); or a court ordered hearing on the status of the guardianship as the result of a review (MCLA 700.5207(1), MSA 27.15207[1]).

In general, a guardian is empowered to make those decisions a parent could make. Minor guardianships are either full or limited.



Any person interested in a ward's welfare or, if 14 years of age or older, the ward may file a petition for the removal of the guardian on the ground that removal would serve the minor's welfare. MCLA 700.5219(1), MSA 27.15219[1]. The petition for removal may include a request for the appointment of a successor guardian. After notice and hearing, the court may terminate the guardianship and make any further appropriate order. MCLA 700.5219(3), MSA 27.15219[3]. If someone other than a parent petitions for modification or removal (not termination), the court has the same authority and available remedies as it has with respect to parental petitions for termination under MCLA 700.5208, MSA 27.15208, MCR 5.404(e)(5). Thus, while only a parent may petition for termination, the court has the authority to terminate a guardianship on a nonparent's petition for modification of the guardianship or removal of the guardian. MCLA 700.5219(3), MSA 27.15219.

The probate court is not the forum to try custody disputes between parents or third parties. The filing of a child custody action by a guardian or limited guardian stays all probate court guardianship proceedings regarding the minor, but the probate court's order concerning guardianship of the child continues in force until suspended by an order of the circuit court. MCLA 722.26b(4), MSA 25.312(6b)[4]. The probate court must terminate a guardianship or limited guardianship on the receipt of a custody determination and order. MCLA 700.5210, MSA 27.15210.

The Petition

Petitions for modification or discharge are often filed informally and may, in certain situations, be accepted by the court in a simple note or letter. While the court rules specify a formal petition (PC 638), in practice, the court will not ignore a request or information regarding the welfare of the minor. The petition may request the termination of the guardianship or the appointment of a successor guardian. MCLA 700.5219(1), MSA 27.15219[1]. It may also ask the court to limit or expand the terms or conditions of a limited guardianship placement plan or a court structured plan (MCLA 700.5206(1)(2), MSA 27.15206) and, if the situation warrants, the appointment of a temporary guardian pending a hearing. MCLA 700.5213(3), MSA 27.15213[3].

Notice

All interested persons must be given notice of the hearing along with a copy of the petition to modify or discharge. Interested persons are the same as those for the initial petition, with the addition of the guardian. MCLA 5213, MCR 5.125(C)(24). A person who has requested notice pursuant to MCLA 700.5104(1), MSA 27.15104[1] should also be notified.

A minor 14 or older who has not signed a petition to modify or discharge is entitled to notice of a request for a successor guardian. Both parents must receive notice of a petition to discharge if both have not also signed the discharge petition. MCLA 700.5213(1)(c), MSA 27.15213[1][c]; MCR 5.125(C)(19)(c).

If there has been Family Independence Agency or family court intervention at any time during the guardianship, the court may require that it receive notice of future termination proceedings. MCA 5.125(D), (E).

The Hearing

The judge may take various actions before the termination hearing, including

ordering an investigation by the Family Independence Agency or a court employee or agent, using community resources to investigate and make recommendations, appointing a guardian *ad litem* or an attorney to represent the minor, or taking other necessary action. MCLA 700.5208(2)(d), MSA 27.15208[2]. The court may consider all relevant material evidence, including written reports, to the extent of its probative value even if it is not admissible under the Michigan Rules of Evidence. MCR 5.404(C)(1).

Substantial Compliance

If a parent applies to terminate a limited guardianship, the court must terminate it if it finds that the parents have substantially complied with the limited guardianship plan. MCLA 700.5209(1), MSA 27.15209[1]. The attorney needs to review the plan carefully with the client to determine the level of compliance. Conversely, if you represent a guardian who wants the guardianship to continue, you need to present evidence that non-compliance has been material. The court may enter an order to cover a transition period of up to six months before termination to facilitate the reintegration of the minor into the parental home. MCLA 700.5209(1), MSA 27.15209[1].

If the parents have not substantially complied with the limited guardianship placement plan, the court may take any of the actions available for full guardianships. MCLA 700.5209(2).

Other Solutions

For all petitions to terminate in which MCLA 700.5209(1), MSA 27.15209[1] does not apply, the court, after notice and hearing, has several options (MCLA 700.5209(2), MSA 27.15209[2]) that include:

- Terminating the guardianship, if the court determines it is in the best interests of the ward (and possibly entering orders to facilitate the rein-

tegration of the minor into the home of a parent for up to six months before the termination and ordering the Family Independence Agency to provide services or supervise the reintegration). These decisions are based on the best interests of the minor according to the 12 factors described in MCLA 700.5101(a), MSA 27.15101[a]. The court may order immediate termination of the guardianship or may order termination pursuant to a transitional plan for up to six months. Transitional plans set forth the requirements placed on the parents, and perhaps the guardian and the minor, for the reintegration of the minor into the family. All plans are generally supervised by either a juvenile court or Family Independence Agency caseworker, requiring reports for further review hearings at a specified date (such as 30, 60 or 90 days). MCLA 700.5209(2)(a), MSA 27.15209[2][a].

A wide range of demands may be placed on the parents, including but not limited to:

- attending parenting classes in the local community
- establishing a suitable home for the minor and providing evidence of the financial ability to provide for such a home by the review hearing date
- psychological evaluation through the county juvenile court
- taking drug screenings at the start of the transition plan and randomly during the transitional period
- starting psychotherapy and continuing until the goals of the prescribed therapy have been met
- starting counseling and continuing until the goals of the counseling have been met



- remaining alcohol free and regularly attending Alcoholics Anonymous meetings
- clearing up all pending criminal matters and completing terms of probation
- having supervised or unsupervised parenting time with the minor at specified times and locations
- continuing on prescribed psychiatric or psychotropic medication.

- Continuing the guardianship for up to a year and possibly ordering the parents to comply with the limited guardianship placement plan or a court modified or structured plan. The court may continue the guardianship for not more than one year from the date of hearing if the court determines that an extension is in the best interests of the minor. MCLA 700.5209(2)(b), MSA 27.15209[2][b]. The court may direct the parties to proceed under a court structured plan that enables the child to return to his or her parents. If the guardianship is a limited guardianship, the court may alternatively order compliance with the limited guardianship plan already in place. The court must review the extended guardianship before the extension expires and must either terminate the guardianship or proceed under MCLA 700.5209(2)(c) or (d), MSA 27.15209[2][c] or [d].
- If the minor has lived with the guardian for at least one year, continuing the guardianship but only if the court finds that the parents have “failed to provide the minor with parental care, love, guidance, and attention appropriate to the child’s age and individual needs resulting in a substantial disruption of the parent-child relationship” and if it is established by clear and convincing evidence that continuation would serve the minor’s best interests. MCLA 700.5209(2)(c), MSA 27.15209[2][c] gives the probate court flexibility to continue a minor guardianship beyond one year under certain circumstances.

The provision only applies if the court has already continued the guardianship under MCLA 700.5209(2)(b)(i) or (ii), MSA 27.15209[2][b][i] or [ii], or ordered compliance with limited guardianship placement plan or court structured plan. If the minor has lived with the guardian or limited guardian for one year or more and the court finds that the parents have failed to provide appropriate care, love, guidance, and attention resulting in a substantial disruption of the parent-child relationship, the guardianship may be continued if it is established by clear and convincing evidence that the continuation would serve the best interests of the minor.

- The court’s other option is to appoint an attorney for the minor or to refer the case to the Family Independence Agency. The attorney or the Family Independence Agency may file a complaint on behalf of the minor requesting the family division of the circuit court to take jurisdiction of the minor under Section 2(b) of Chapter XIII of 1939 PA 288, MCL 712A.2, MCLA 712A.2, MSA 27.3178(598.2), MCLA 700.5209(2)(d), MSA 27.15209[2][d]. If the family court takes jurisdiction over the minor, as a



matter of policy, the guardianship proceedings are stayed. MCLA 722.26b(4), MSA 25.312(6b)[4].

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