ChatGPT

Rubrics for Questions 61–90

Q61: *What happens if parents don't pay the support required in the placement plan?*

- **Guardianship Continues:** A parent's failure to pay support under a Limited Guardianship Placement Plan does **not** automatically end the guardianship. The arrangement remains in effect until a court formally terminates it. The guardian is still legally responsible for the child's care in the meantime.
- **Parental Non-Compliance:** Not paying court-ordered support means the parent isn't fulfilling the plan's conditions. Under Michigan law, a limited guardianship cannot be terminated unless the parent has substantially complied with the plan or the judge finds termination is in the child's best interests (MCL 700.5209). In practice, the court will usually **keep the guardianship in place** if parents haven't met their support obligations.
- **Guardian's Options for Support:** The guardian is *not required to use personal funds* to support the child [1] [2]. They should use any **resources of the child** for the child's needs first. If the parents aren't providing agreed support, the guardian can **take legal steps to secure support** – for example, a guardian has authority to initiate a child support action to compel the parents to pay for the child's care [1].
- **Long-Term Consequences:** Continued failure by the parents to provide support (without good cause) can have serious consequences. Michigan law even notes that if a parent substantially fails to comply with a limited guardianship plan's support provisions for 2 years or more, it can be grounds for termination of parental rights [3]. While that is an extreme outcome, it underscores that the **court expects parents to fulfill** their financial obligations in a guardianship plan. The guardian or another interested person could also petition to convert the case to a **full guardianship** if the parents are unwilling or unable to support and reunify with the child.

Q62: *What if I agreed to a limited guardianship plan but can't complete the requirements?*

- **Guardianship Remains in Place:** If you cannot complete the requirements in the Limited Guardianship Placement Plan, the **limited guardianship will continue** until the court is convinced that ending it is in the child's best interest. You cannot simply reclaim custody because you "tried your best." Michigan law says a court **must not terminate** a limited guardianship at a parent's request unless the parent has substantially complied with the plan (or unless termination is otherwise in the child's welfare). In other words, the plan's conditions are binding.
- **Petition the Court if Needed:** You **do have options** if the plan has become unworkable. You (or any interested person) may file a petition to **modify the guardianship** instead of terminating it. For example, you could ask the court to adjust the plan's requirements or timelines if circumstances have changed. The same form, Petition to Terminate/Modify Guardianship (PC 675), is used to request changes. Be prepared to explain why the original requirements aren't feasible and how an adjustment still serves your child's best interests.

- **Possibility of Full Guardianship:** If you anticipate being unable to resume care for an extended period, the court might consider converting the case to a **full guardianship** (which is not voluntary) so that the guardian can continue caring for the child without the structure of the plan. (For instance, if a parent's situation deteriorates such that reunification isn't foreseeable, a full guardianship under MCL 700.5204 could be pursued.) This would require a new petition or a modification request by an interested person, and the court would need to find one of the statutory grounds for a full guardianship.
- **Importance of Communication:** It's best to **communicate** with the current guardian and, if possible, come to an understanding. Many times, guardians and parents can agree to extend deadlines or modify parts of the plan and then jointly ask the court to approve those changes. The court will appreciate that you're still engaged. If you simply do nothing, the guardianship will not end on its own, and your prolonged non-compliance could even harm your parental rights long-term [3]. In summary, **don't ignore the situation** – proactively seek a legal adjustment to the plan if you truly cannot fulfill it.

Q63: *What does ex parte mean in emergency guardianship?*

- **Definition – One-Sided Emergency Order:** "**Ex parte**" means an action taken by the court **without prior notice to the other parties** [4]. In the context of an emergency guardianship, an ex parte appointment is a **temporary guardianship granted by a judge without a formal hearing or notifying the parents beforehand**, due to urgent circumstances. This allows the court to act immediately to protect a child in danger.
- **Used for True Emergencies:** Courts will issue an ex parte guardianship order **only in a true emergency** where waiting for a regular hearing could seriously harm the child [5]. For example, if a child is in immediate risk and needs an adult with legal authority *right now*, the judge can appoint a temporary guardian the same day the petition is filed, without notifying the parents first. The normal requirement to give advance notice is waived in these dire situations [5].
- **Follow-Up Procedure:** Because ex parte orders are granted without the other parties present, the law builds in safeguards. Immediately after an ex parte guardian is appointed, the court must notify the parents and other interested persons of the appointment [6]. If *anyone* objects to the emergency guardianship, the court **must hold a prompt hearing**, typically within 14 days, to decide whether the temporary guardianship should continue [7]. At that full hearing, the parents and others get a chance to be heard.
- **Summary:** In short, *ex parte* means **"without the other side"**. An ex parte emergency guardianship is a rapid, one-sided court order establishing a temporary guardian to ensure a child's safety, effective immediately. It's a critical tool to protect minors in imminent danger, but it's **temporary and subject to quick review** so that everyone's rights are ultimately respected.

Q64: *Can an emergency guardianship be extended beyond 6 months?*

- **Maximum Duration of Temporary Guardianship: No – an emergency (temporary) guardianship cannot exceed 6 months** by law. Michigan statutes explicitly limit a temporary guardianship for a minor to a maximum of six months from the date of appointment [8]. After six months, the temporary Letters of Guardianship **automatically expire** (lapse) unless the court has made a further order.
- **No Extensions Past 6 Months:** The court **does not have authority to continually extend** a temporary guardianship beyond this timeframe. Temporary guardianships are intended as a short-

term solution to address an immediate crisis [8] while a permanent plan is put in place. If the child still needs a guardian after six months, the solution is to pursue a full (regular) guardianship, not to keep extending the "emergency" status.

- **Converting to Full Guardianship:** In practice, if the underlying issues that made the guardianship necessary aren't resolved well before the six-month mark, the person seeking to care for the child should file for a **full guardianship** (or the temporary guardianship petition will proceed to a full hearing). Often the temporary guardian is the same person who will petition to become the full guardian. The full guardianship process will involve a court hearing with notice to all parties, and the judge will decide if a long-term guardianship is warranted.
- **Keep the Timeline in Mind:** It's important for guardians and petitioners to be aware of this 6-month cap so they can plan accordingly. If you're a temporary guardian, be prepared to either hand back care of the child or have the court approve a permanent guardianship by the end of six months. The court may remind you of this at the time of appointment. In summary, **six months is the hard limit** – there is no legal mechanism to extend a minor's temporary guardianship beyond that [8] .

Q65: *What are "active efforts" under ICWA?*

- **Higher Standard than "Reasonable Efforts":** Under the Indian Child Welfare Act (ICWA) and Michigan's corresponding law (MIFPA), **"active efforts"** refers to a rigorous, hands-on approach to keep an Indian family together. It means the petitioner (usually the agency or person seeking guardianship) must have made **more intensive efforts than the standard "reasonable efforts"** required in non-ICWA cases. This higher standard is meant to prevent the unnecessary breakup of an Indian family.
- **Services to Prevent Removal:** Active efforts typically include providing **comprehensive remedial services and rehabilitative programs** to the parents and child. Examples of active efforts are given in the law and include things like: working with the child's **tribe to develop a family plan**, using **culturally appropriate resources or counselors**, and **helping the family overcome barriers** to accessing services (for example, providing transportation to parenting classes or therapy). The key is that these efforts should be tailored to the family's culture and needs, and they shouldn't stop at simple referrals – they involve proactive assistance.
- **Requirement in ICWA Guardianship Cases:** In an *involuntary* guardianship proceeding involving an Indian child (one where the parent doesn't consent), the court cannot appoint a guardian unless the petitioner proves that active efforts were made **and** those efforts were unsuccessful in preventing the need for the guardianship. This often means testimony from social workers or tribal representatives about everything that was tried to keep the child with their parent. It's a more demanding showing than in ordinary cases.
- **Summary:** Think of *active efforts* as **"affirmative, active, thorough, and timely efforts"** to help a family. It's a cornerstone of ICWA. For example, instead of just telling a parent to get counseling, active efforts might involve arranging counseling through a tribal health service, following up on progress, and even addressing practical problems like childcare or transportation so the parent can engage in services. This concept underscores ICWA's goal: whenever safe and possible, **support the family to stay intact** rather than remove the child.

Q66: *Who can be a qualified expert witness in an ICWA case?*

- **Definition of QEW:** A **Qualified Expert Witness (QEW)** in an ICWA guardianship case is someone with specialized knowledge of the child's **tribal culture and child-rearing practices**, who can

provide testimony to the court about the likely impact of the guardianship on the child. Typically, a QEW is either **a member of the child's tribe** or another individual recognized by the tribe as having expertise in tribal customs regarding family and child care.

- **Role in the Case:** In any involuntary proceeding (like a contested guardianship) involving an Indian child, ICWA requires at least one QEW to testify. The QEW's job is to help the judge understand the tribe's perspective and to verify that continued custody by the parent is likely to result in serious harm to the child [9]. Because the law sets a higher standard of proof for removing an Indian child, the QEW's testimony is crucial to meet that standard.
- **Examples of QEWs:** A QEW could be a **tribal social worker**, a representative of the tribe's child welfare department, or an elder/tribal member who is knowledgeable about how the tribe cares for children. The person should be able to explain tribal child-rearing norms and whether the parents' situation meets ICWA's criteria for serious damage to the child. Importantly, **ICWA defers to the tribe's judgment** on who is qualified. Many tribes have lists of people who can serve as QEWs, or they will designate someone for the court.
- **Key Point:** The QEW is **not just any expert**; it's specifically someone with a cultural lens. For instance, a generic psychologist would not meet the requirement unless they have deep knowledge of the child's tribal culture. The idea is to ensure the court receives testimony that reflects **the social and cultural standards of the Indian community** in question. This helps prevent misunderstandings – what might be seen as neglect or harm in a generic context might be viewed differently (or remedied differently) within the tribe's traditions. The QEW bridges that understanding for the judge.

Q67: *Does ICWA affect who can be appointed guardian?*

- **Yes – Placement Preferences Apply:** ICWA (and Michigan's MIFPA) impose **strict placement preferences** for guardians of an Indian child. The goal is to keep the child connected to their family and tribe. This means that when a court is appointing a guardian for an Indian child, it must **prioritize certain people** to serve in that role, unless there's a good reason not to.
- **Order of Preference:** The law sets out an ordered list of who should be considered first: **1) a member of the child's extended family; 2) a foster home licensed or approved by the child's tribe; 3) an Indian foster home licensed by the state; 4) an institution approved by a tribe** (for example, a tribal children's home). Essentially, blood relatives come first, and if not available, the child's tribe should have a say in an alternative Indian placement. This is different from a non-ICWA case, where a close family friend or any suitable person might be appointed without a hierarchy.
- **Deviation Requires "Good Cause":** The court **can deviate** from these preferences **only if there is "good cause"** to do so. For instance, if an extended family member is available but proven unfit, that could be good cause. Or if the child (being old enough) has a strong preference to be with a non-relative guardian, the court might consider that (the child's preference is actually listed as a possible good cause). But the burden is on the person proposing a non-preferred placement to show why the preferred options are not suitable.
- **Tribal Input:** Additionally, the child's **tribe has the right to intervene** and present its own recommendations for guardians. Often, courts will actively consult the tribe when determining a guardian. The tribe may identify extended family or other tribe members who could serve. **ICWA gives tribes a voice** in the placement decision that would not be present in an ordinary guardianship case.
- **Bottom Line:** ICWA absolutely affects who can be guardian. The court cannot simply appoint a well-meaning unrelated guardian (even if they're qualified) **without first considering the ICWA**

preference list. The law's intent is clear: an Indian child's guardian, if one is needed, should if at all possible be someone who keeps the child within their family or tribal community. This preserves the child's cultural identity and tribal ties.

Q68: *Can a tribal court take over a guardianship case?*

- **Yes, in many cases:** If the child is a member of (or eligible for membership in) a federally recognized tribe, the **tribal court can potentially take jurisdiction** over the guardianship proceedings. Under ICWA and Michigan law, there are provisions for **transferring a case to a tribal court** or for the tribe to assert jurisdiction, depending on the child's domicile and the circumstances.
- **Exclusive Tribal Jurisdiction on Reservation:** If the Indian child **resides or is domiciled on the tribe's reservation**, or is already a ward of a tribal court, then the tribal court typically has **exclusive jurisdiction** over child custody proceedings (including guardianships). In such cases, a state probate court in Michigan would not handle the guardianship at all – it would be initiated in the tribal court. The state court would defer to the tribe's authority.
- **Right to Transfer:** For Indian children not living on the reservation (e.g., living in a Michigan community off-reservation), **either parent, the Indian custodian, or the tribe can petition to transfer** the case to tribal court. Absent an objection by *either parent*, or a finding of good cause to deny transfer, the state court should grant that request. This is a key tenet of ICWA – it recognizes that tribes have a strong interest in the upbringing of their children and often a separate court system to handle such matters.
- **Genesee County (Michigan) Procedure:** In practice, if a guardianship case is filed in a Michigan court and it's discovered the child is an "Indian child," the court will notify the tribe. The **tribe may then intervene** in the case. The tribe can simply participate, or it can formally request the case be moved. If the tribe or parent requests a transfer to tribal court, Michigan's courts will generally honor that, as long as the tribal court is willing to accept the case and no parent objects.
- **Impact of Transfer:** If a tribal court takes over, the case proceeds under the tribe's laws and procedures. The Michigan court's involvement ends (except perhaps to formally close or transfer the file). It's worth noting that if a state court were to ignore a proper transfer request, or otherwise violate ICWA's jurisdiction rules, the resulting order could be challenged. In fact, ICWA/MIFPA specifically allow an Indian parent or tribe to **invalidate a state court order** if it was made in violation of ICWA's provisions on things like notice or the right to transfer [10] . That underscores how important this jurisdiction issue is.
- **Summary:** A tribal court can "take over" a guardianship case either by having initial jurisdiction (if the child lives on reservation) or by **receiving a transfer of the case**. This ensures that decisions about the child can be made in a forum that understands and prioritizes the child's cultural and tribal background. State courts are required to cooperate with and defer to tribal courts in these matters, as dictated by ICWA.

Q69: *What special rights does a minor 14 or older have in guardianship?*

- **Right to Initiate Guardianship:** A minor who is **14 years of age or older has the legal right to petition the court** for a guardian on their own behalf [11] . In Michigan, the law explicitly includes "the minor, if 14 or older" among those who can file a petition to appoint a guardian. This means a teenager can ask the probate court for a guardianship if they feel it's necessary (for example, if their parents are not taking care of them).

- **Right to Notice and Voice in Proceedings:** A child 14+ must be given the same formal **notice of hearing** that adults get [4]. They are considered an "interested person" in the case. This means they can attend the hearing, speak to the judge, and let their wishes be known. While the court's decision will be based on the minor's best interests, a mature minor's opinion carries weight. The court may ask a 14-year-old whom they prefer as guardian or how they feel about the situation.
- **Right to Object to a Guardian or Nominate One:** If a parent has nominated a guardian (say, in a will) or someone else petitions to be guardian, a child who is 14 or older has a sort of veto power over certain arrangements. For example, if a guardian is appointed by a parent's will (a *testamentary guardian*), the minor can **object and prevent that appointment from taking effect** [12]. More generally, a 14+ minor can tell the court if they do *not* want a particular person as guardian. The court will take that into consideration heavily when deciding whom to appoint. In practice, judges rarely force a teenager to live under a guardian they strongly oppose, absent extraordinary circumstances.
- **Right to Petition for Changes:** Once a guardianship is in place, a minor aged 14 or older can also **petition the court to terminate or modify the guardianship**. They are on equal footing with adults in this regard. If the teen feels the guardian isn't doing a good job or conditions have changed (or even that they'd rather live with a different relative), they can file a Petition to Modify or Terminate (using form PC 675) and get a hearing. The court may appoint an attorney for the minor in such cases to ensure their voice is effectively heard.
- **Right to an Attorney/GAL:** While not an automatic "right" in all cases, if a minor 14+ is involved in a contested matter, the court can appoint a **Guardian ad Litem or even an attorney** specifically for the minor. This is more likely when the minor's interests might conflict with others. For instance, Genesee County courts note that if a hearing is set on a guardianship matter, the court *may appoint an attorney for the minor* to ensure their interests are represented [13]. So, effectively, an older minor can end up with their own legal representative or GAL to amplify their voice.
- **In Summary:** Michigan law gives minors 14 and over a significant **seat at the table** in guardianship matters. They can start the process, must be kept informed, can express their preferences, and even drive or stop certain outcomes (such as objecting to a testamentary guardian) [12] [11]. The rationale is that by age 14, minors have enough maturity to have a say in who cares for them. The court will listen – ultimately ensuring the solution is in the minor's best interest, but with a keen ear to the minor's own wishes.

Q70: *Does my child get their own lawyer in guardianship proceedings?*

- **Guardian ad Litem (GAL) Appointment:** In Michigan minor guardianship cases, the court will often appoint a **Guardian ad Litem (GAL)** for the child, rather than what one might think of as the child's "own lawyer." A GAL is usually an attorney (or trained professional) whose role is to **represent the child's best interests** in the case [14]. The GAL is an impartial investigator and advocate for what they believe will best serve the child, which may or may not align exactly with what the child says they want. This is standard in probate guardianships – the idea is to have someone focused solely on the child amid the adults' petitions.
- **Not an Attorney-Client Relationship:** It's important to note that when an attorney acts as a GAL for a minor, **no attorney–client relationship is formed with the child** [15]. The communications between the child and the GAL are not privileged or confidential in the way they would be if the attorney were the child's personal lawyer. The GAL might talk to the child and report the child's wishes to the judge, but the GAL can also make a recommendation that differs from the child's wishes if the GAL believes a different outcome is in the child's best interest [14] [15]. For example, a

child might say they want to live with mom, but the GAL might recommend that the guardianship with grandma continue if the GAL thinks returning to mom isn't safe yet.

- **When Child's Wishes Matter:** If the child is older or the case is complex, sometimes the court will take extra steps. Michigan court rules allow that in any guardianship hearing, the judge **has the option to appoint an attorney specifically to represent the minor** (this would be more like "the child's own lawyer") [13]. This is not routine, but it can happen particularly if the child's viewpoint needs a strong voice in court distinct from a GAL's best-interest recommendation. In such scenarios, the child would indeed have an attorney advocating for what the child wants. Additionally, a child 14 or older can hire their own attorney to intervene, though that's uncommon.
- **Bottom Line:** In a typical case, **your child will not have a personal attorney that they direct**, but they will have a **GAL (who is often an attorney)** looking out for them [14]. The GAL will usually meet with the child (if the child is old enough) and will tell the judge what the child's wishes are and what the GAL recommends. The GAL's involvement ensures the child's interests don't get lost in the shuffle. Only in special circumstances would the child get an **independent lawyer** separate from the GAL. For most families, the GAL serves as "the child's voice" in the proceeding, albeit filtered through a best-interest lens. Parents and guardians should cooperate with the GAL's investigation, as their report can greatly influence the judge [16].

Q72: *What if one parent supports the guardianship but the other objects?*

- **Voluntary (Limited) vs. Involuntary:** If one parent is on board and the other parent is **against** the guardianship, the case cannot proceed as a **limited guardianship** (the voluntary kind) because that requires all legal parents to consent. For a limited guardianship, if parents have joint legal custody, *both* must sign the petition and the placement plan [17]. So in a scenario where one parent refuses, you'll likely be looking at an **involuntary (full) guardianship** petition under MCL 700.5204 instead.
- **Full Guardianship Proceedings:** In a **full guardianship**, one parent's objection does not automatically halt the process – but it does mean the court has to carefully evaluate the situation. The burden will be on the petitioner (perhaps the other parent or a relative) to prove one of the legal grounds for guardianship (e.g., the objecting parent is unfit, or the child has been living with someone else without proper care). The case becomes essentially **contested**. The objecting parent will receive notice of the hearing and can present their side to the judge. The supporting parent's consent can help the case, but the court must still consider the **fitness and rights of the objecting parent**.
- **Outcome Scenarios:** What happens often depends on **why** the one parent objects and that parent's circumstances. If the objecting parent is *fit and able* to care for the child, the court is unlikely to grant a guardianship over that objection – because a guardianship is not meant to override a capable parent's rights. However, if the objecting parent is, say, unfit (perhaps struggling with serious issues) or otherwise unavailable (even if they object out of pride), the court can still appoint a guardian if it finds the statutory conditions met and that guardianship serves the child's welfare [18] [19]. In practical terms, the judge will examine whether the objecting parent is actually providing proper care.
- **Notice and Best Interests:** The opposing parent will be treated as an interested party – they must be **given notice of the guardianship hearing** and the opportunity to be heard. The court might order an investigation or a report (e.g., from a GAL or court investigator) to gather facts on the family situation. Ultimately, the judge will decide what's in the **child's best interests**, considering input from both parents. It's possible the judge could deny the guardianship if they believe the

objecting parent can care for the child adequately (perhaps ordering the child be with that parent). Or the judge might grant the guardianship if evidence shows the child will be at risk without it, despite one parent's opposition.

- **Practical Tip:** If you're the party seeking guardianship with one parent's blessing, you should be prepared to **show why the guardianship is still needed** despite the other parent's wishes. For example, demonstrate the objecting parent's absence, neglect, or inability. If you're the objecting parent, you should be prepared to **prove your fitness** and that you have a plan to care for the child. The court's priority is the child's safety and stability, so that will outweigh mere disagreements. In any case, the split between parents makes the process more involved – it will likely require a full hearing and possibly multiple court sessions rather than a quick approval.

Q75: *I'm being deployed overseas. Can I arrange guardianship for my child?*

- **Delegation for Short Term (Power of Attorney):** Yes, you can and should make arrangements for your child's care during your deployment. If the deployment is relatively short (**180 days or less**), Michigan law allows you to sign a **Delegation of Parental Authority** (a power of attorney) to a trusted adult, giving them the authority to handle your child's care in your absence [20] [21]. This is the simplest route for short deployments – it doesn't involve the court at all. You'd draft a power of attorney document naming, say, a grandparent or close relative to act in your place for up to 6 months (after 180 days, that document expires unless you renew it). Keep in mind you must notify the court if you have an active guardianship case and you do such a delegation [22], but in general it's a quick solution.
- **Guardianship for Longer Term:** If your deployment will be longer than six months or you want a more formal arrangement, you can pursue a **voluntary guardianship** through the probate court. Specifically, as a parent you can petition for a **Limited Guardianship**. This is commonly used when a parent knows they will be temporarily unable to care for the child. You would **file a Petition for Appointment of Limited Guardian of a Minor (PC 650)** and work with the person you're appointing (perhaps a grandparent or sibling) to create a **Limited Guardianship Placement Plan (PC 652)** [23]. This plan will state that you are unable to parent during deployment and outline how the guardian will care for the child, what support you'll provide (e.g. financial support from your military pay), and that you intend to resume custody when you return [24]. Both you and the proposed guardian sign this plan, and the court must approve it.
- **Court Process (if guardianship):** In Genesee County (and across Michigan), the process is quite streamlined if it's voluntary. You file the petition and plan, pay the fee (which can be waived if needed), and the court will schedule a hearing. Because you, the custodial parent, are consenting and actually requesting the guardianship, the court will usually grant it as a matter of course, provided the plan is complete [25]. It's wise to start this process **well before your deployment date** so everything is in place. Once appointed, the **limited guardian will have legal authority** to make decisions for your child (school, medical, etc.) while you're away, and you can have peace of mind that there's an official order in case any issues arise.
- **Reunification:** The guardianship is meant to be temporary. When you return and are ready to resume full custody, you will need to petition the court to terminate the guardianship. The placement plan will likely set conditions (for example, that you've returned from deployment and are able to provide a home). As long as those conditions are met, the court will return your child to you. Limited guardianships were designed for exactly this type of scenario – **responsible parents who face a short-term inability to care for a child** but plan to come back. Judges appreciate when

parents proactively use guardianships or powers of attorney to ensure the child is safe during things like military service. It shows you're putting your child's needs first.

Q76: *I'm incarcerated. Can I consent to guardianship?*

- **Yes – Voluntary Arrangements Are Possible:** Being incarcerated does not strip you of your rights as a parent to arrange for your child's care. In fact, **incarceration of a parent is one of the situations where a guardianship is often necessary**. You absolutely can (and should) consent to a guardianship if you trust someone to care for your child while you are in jail or prison. By consenting, you make the process smoother and ensure your child has a stable caregiver with legal authority. One way to do this is through a **Limited Guardianship** (if you expect to be able to resume care upon release). As the custodial parent, you would file or at least sign the petition and a placement plan just as any parent would in a voluntary guardianship [25] . The plan might state that you are incarcerated and unable to care for the child temporarily, and perhaps include steps for reunification when you get out.
- **Full Guardianship with Parental Consent:** If circumstances suggest a **full guardianship** is more appropriate (for instance, if there's no other parent in the picture and your release is far off or uncertain), you can still facilitate that. While a full guardianship is technically "involuntary," your lack of opposition and support for the guardian will be noted by the court. Michigan law recognizes that when a parent is confined in jail or prison, their parental rights are "suspended" by that circumstance [19] – which is a ground for the court to appoint a full guardian. By consenting or at least not contesting, you essentially acknowledge that someone else should act as guardian. The court will still need to find it's in the child's best interest, but a parent's cooperation goes a long way. You might, for example, write a letter to the court or sign a consent form indicating you agree with the guardianship petition.
- **Legal Grounds – MCL 700.5204:** It's worth mentioning that the law explicitly includes **incarceration of a parent** as a reason a guardianship may be needed. MCL 700.5204(2)(a) lists "the confinement of the parent in a place of detention" as a condition that can justify appointing a guardian [26] . So the court is accustomed to these scenarios. If you take initiative to consent, the proceeding may be almost uncontested – essentially just ensuring the proposed guardian is suitable. The court may still appoint a Guardian ad Litem to confirm the arrangement is okay and possibly get your input (sometimes arrangements are made for you to call into the hearing, for example).
- **Why Consenting Helps:** By consenting, you maintain some measure of control and good will. You can have a say in **who** the guardian will be (it's often a relative). You also demonstrate to the court that you're acting in your child's best interests despite your situation. This can help later if you seek to regain custody – the court will remember that you cooperated. If, instead, you refused to cooperate and someone had to fight you to get a guardianship, that might raise doubts about your judgment. So, yes, you *can* consent, and it's generally the right thing to do for your child. Communicate with the relative or friend who's willing to be guardian and consider signing whatever documents you're able to (the court or guardian's attorney can often send papers into the facility for you). In summary: **being incarcerated, you cannot care for your child directly, but you can certainly ensure they are cared for by formally consenting to a guardianship.**

Q77: *What if the judge denies my guardianship petition?*

- **Motion for Rehearing:** If your petition for guardianship is denied, you have a right to ask the **same court** to reconsider its decision. This is done by filing a **motion for rehearing** (essentially a request

for the judge to review and change their own ruling) [27]. In Michigan, such a motion generally must be filed within **21 days** of the order denying your petition [28]. In the motion, you would explain why you believe the judge should rethink the decision – for example, if new evidence has come to light, or if you believe the court misinterpreted the facts or law. It's usually wise to have an attorney help draft this, because you're basically telling the judge they were wrong (tactfully). Note that the 21-day deadline is strict; missing it can forfeit this option.

- **Appeal to Higher Court:** Separately from (or in addition to) a rehearing request, you have the right to **appeal** the decision to the Michigan Court of Appeals [29]. An appeal means a higher court will review the probate judge's decision for legal errors. You typically have **21 days from the final order** to file a claim of appeal [29]. Appeals can be complex – it's not a do-over of the hearing but rather a legal argument that the judge made a mistake in applying the law or abused their discretion. The appellate court will consider the record from your hearing; you generally cannot introduce new evidence on appeal. Because of this complexity and the formal briefs required, it's highly recommended to **consult an attorney** if you consider an appeal [30].
- **Other Options:** Sometimes denial happens because of a correctable issue (for example, you didn't notify a necessary party, or you lacked a required document). In such cases, the judge might deny "without prejudice," or inform you at the hearing what needs to be fixed for a future petition. If that occurs, you might not need an appeal – you might simply need to address the issues and file a **new petition** later. Pay close attention to the judge's reasoning. If it's something like "the child doesn't actually reside in this county" or "the parent objected and is fit," those are substantive issues that might not be fixable by a new filing unless circumstances change.
- **Important Note: Act quickly** if you plan to seek a rehearing or appeal. The 21-day window for both is the same, and it starts from the date the order was entered (signed), not from when you received it. Also, pursuing a rehearing does not extend the appeal deadline unless the judge grants the rehearing and alters the order. Many people choose one route or the other due to time and cost. If you truly believe the denial was wrong and the child is at risk, these legal remedies are there. Given the stakes, obtaining legal counsel is crucial – appeals especially are technical (Michigan Court of Appeals procedures must be followed precisely) [30].
- **Emotional Consideration:** It's hard when a court says "no" after you stepped up to help a child. Don't take it as a personal defeat. Evaluate *why* it was denied. Was it a legal technicality or the merits? You may have other avenues, like reporting concerns to CPS if the child is in danger, or perhaps the court preferred a different solution (like placement with another relative). Each case is unique. But from a legal standpoint, **rehearings and appeals** are the two formal ways to challenge a denial [27].

Q78: *The child lives in Indiana but the parents live in Michigan. Which state handles guardianship?*

- **Jurisdiction Follows the Child's Residence:** In general, a minor guardianship must be filed in the state (and county) where the **child is living**. Michigan law requires that a guardianship petition be filed in the **county where the minor resides or is physically present** [31]. If the child is residing in Indiana, then an Indiana court would have jurisdiction to appoint a guardian – Michigan courts do not have authority if the child isn't in Michigan (barring the child being present in Michigan at the time of filing). So, in this scenario, Indiana handles it. The Michigan parents can't go to a Michigan probate court and ask for a guardianship of a child who's over state lines, unless they first bring the child into Michigan.

- **Why Location Matters:** Guardianship is considered a matter of "custody" of the child, and courts generally only make custody/guardianship orders for children within their jurisdiction. An Indiana court can ensure the guardian it appoints can make decisions for the child locally (school, doctors in Indiana, etc.), whereas a Michigan court trying to issue orders for a child in Indiana would be problematic. There are also interstate laws (like the UCCJEA – Uniform Child Custody Jurisdiction and Enforcement Act) that govern these situations, typically pointing to the child's "home state" as the proper forum. Indiana is the home state if the child has been living there.
- **If Child is Brought to Michigan:** If the parents or family bring the child into Michigan (even temporarily), a Michigan court **could** take jurisdiction because the child would then be "physically present" in Michigan [31]. For example, if the child is retrieved from Indiana and now staying with Grandma in Michigan, Grandma could file in her Michigan county. However, if Indiana was the home state, Michigan might still defer to Indiana depending on timing (this gets into UCCJEA technicalities). The safer course is to file in Indiana if the child has substantial ties there.
- **Parental Residence vs. Child's Residence:** It might seem logical that because the parents are Michigan residents, Michigan would handle it – but that's **not** how guardianship works. The critical factor is the child's location. The parents' role in a guardianship is as "interested persons," but the proceeding itself is about the child's custody. Think of it this way: a Michigan court can't change custody of a child who's under another state's jurisdiction unless certain conditions are met. Here, since the child is in Indiana, the Michigan parents would likely need to go to an **Indiana probate court** (probably in the county where the child lives) to initiate guardianship. They might need to hire an attorney licensed in Indiana or consult Indiana's guardianship statutes, which are similar in concept but of course use Indiana law.
- **Practical Example:** If the Michigan parents want Grandma (who lives in Michigan) to be guardian, but the child currently lives with an aunt in Indiana, one solution is for the child to come to Michigan to live with Grandma and then petition Michigan. If that's not immediately feasible, the parents might petition Indiana to appoint a guardian (perhaps the Indiana aunt or someone) and then later transfer guardianship to Michigan under interstate provisions once the child moves. It can get a bit complicated, but the headline answer is: **the state where the child resides will initiate the guardianship**. Here, **Indiana** would be the appropriate forum unless the child is relocated to Michigan first.

Q79: *What are my responsibilities for my ward's education?*

- **Ensure Regular Schooling:** As a guardian, you essentially step into the shoes of a parent regarding education. You are responsible for making sure your ward is **enrolled in school** (or an appropriate educational program) and that they attend regularly. The guardianship order gives you the authority to register the child at school, choose public vs. private or homeschool (within legal requirements), and generally **make all necessary educational decisions** [32]. This includes providing any school records needed, updating the school on the guardianship, and meeting with teachers as needed.
- **Facilitate Educational Progress:** The Michigan guardianship guidelines explicitly note that a guardian must *"facilitate the ward's education"* [33]. In practice, this means you should ensure the child is in the proper grade level, receiving any special education services if applicable, and getting help (tutoring, etc.) if they struggle. You should attend parent-teacher conferences, respond to school communications, and support the child's academic development. Think of it as you are now the advocate for the child's right to learn.
- **Extracurriculars and Social Development:** Education isn't just academics. A guardian is expected to also encourage the child's **social and extracurricular activities** as part of a well-rounded

upbringing [33]. This might mean signing permission slips for field trips, allowing the child to join clubs or sports, and facilitating after-school activities or summer programs that enrich the child's growth. Essentially, you provide the same guidance and opportunities a prudent parent would provide to help the child develop socially and emotionally.

- **Legal and Administrative Duties:** You have the right (and duty) to **access the child's educational records** (thanks to your Letters of Guardianship) and to make decisions about things like special education plans (IEPs), disciplinary matters, or school choice. If the child needs evaluation for learning disabilities, you consent to that. If the child is truant, you are the one the school will hold accountable. Michigan law holds guardians to the same standards as parents for compulsory education. Also, if the child is older and looking at post-secondary options, you would help with that process as well.
- **Best Interests – Educationally:** In all educational matters, your **guiding principle should be the child's best interests**. For example, if the child was struggling in their previous school environment, part of your responsibility might be to find a better-fit school or intervene with resources. If the child has an established educational routine that works, you maintain it. You should also maintain any court-ordered requirements, such as ensuring the child remains in a certain school district if the court specified that in a placement plan. Finally, remember to keep records of the child's educational progress, as you'll be reporting generally on the child's well-being in your annual guardian reports (and education is a part of that).

Q80: *What's an inventory and when must I file it for a conservatorship?*

- **Inventory Defined:** An **Inventory** in a conservatorship is a detailed list of all the minor's assets (property, money, accounts, etc.) at the time the conservator is appointed, along with the approximate value of each asset. It essentially creates a snapshot of the estate the conservator is responsible for. The Inventory will include things like bank account balances, investment accounts, real estate, valuable personal property, and any income sources due to the minor (like a structured settlement or expected inheritance). It should also list any debts or liens associated with the property. The format is set by form PC 674 in Michigan.
- **Deadline – 56 Days:** Michigan law requires the conservator to **file the Inventory with the court within 56 days** of being appointed [34]. This is roughly an eight-week window to identify and marshal all the minor's assets. Along with filing it with the probate court, the conservator must also **serve a copy of the Inventory on the interested persons** (such as the minor if 14 or older, the minor's guardian or parents, and presumptive heirs) [34]. This service is required by MCL 700.5417 and court rule, to keep everyone informed of what assets the minor has.
- **What Happens at Filing:** When you file the inventory, there is often an **inventory fee** due to the court, which in Michigan is usually a small percentage of the assets (though for minors it might be waived or minimal for smaller estates). The court reviews the inventory to ensure the conservator knows what they're managing. It effectively **sets a baseline** for future accountings – the annual account will start with the assets on hand per the inventory.
- **Accuracy and Updates:** It's important to be **thorough and accurate** in the inventory. If you discover additional assets after filing (say a bank account that was forgotten), you may need to file an amended inventory or include it in the first annual account. But major omissions can cause problems. Also, assets on the inventory might be designated as **restricted** (for example, funds in a restricted account that can't be accessed without court order). The inventory will help the court decide if a bond is required or can be waived (large unrestricted assets often mean bond needed).

- **Summary:** In short, an Inventory is a **mandatory disclosure of the child's estate** that the conservator must submit within about two months of appointment [34]. It kick-starts the conservatorship reporting and ensures transparency about what the conservator is in charge of. Prepare it promptly – gather bank statements, property appraisals (if needed), vehicle titles, etc., right after you're appointed so you can meet the 56-day deadline.

Q81: *What has to be included in the annual conservator's account?*

- **Timing:** A conservator of a minor must file an **Annual Account** with the probate court **every year, within 56 days of the anniversary of appointment** [35]. For example, if you were appointed on June 1, your account is due by July 27 of each subsequent year. This account covers all financial activity in the conservatorship during the preceding year.
- **Content – Income and Expenses:** The annual account needs to **itemize all income (receipts) and all expenditures (disbursements)** during the reporting period [36]. This means you list every source of money that came in for the child: interest, dividends, social security benefits, child support, proceeds from any sale of assets, etc., with amounts and dates. Likewise, list every expense paid out: for example, payment for the child's school tuition, medical bills, clothing, extracurricular costs, etc. These should be categorized and totaled. The account essentially is a ledger showing money in and money out, and the remainder on hand.
- **Supporting Documentation:** The court **expects proof** to back up the numbers. You must attach **financial statements and receipts** as needed [37]. Typically, you'll include year-end or quarterly bank statements that coincide with the account period to show the balances, any brokerage statements, and receipts/invoices for major expenditures. Every dollar spent should be accounted for; if something lacks a formal receipt (say, $20 cash for a school field trip), you might note it, but try to minimize such unverified expenses. The goal is transparency – the judge (and interested persons) should be able to see that all funds were used appropriately for the child.
- **Service on Interested Persons:** After preparing the account, you need to **serve a copy on all interested persons** (the minor if 14+, the parents if they're entitled, etc.) [37], and file a Proof of Service with the court. This lets others review and object if something seems off. If an interested person questions an expense, they can bring it to the court's attention.
- **Court Review and Approval:** The court will review the account and, if everything is in order, approve it. If there are irregularities (e.g., unexplained large withdrawals, or using the minor's funds for something that looks improper), the court may ask for clarification or a hearing. Common red flags include the conservator paying themselves without approval, or expenses that don't clearly benefit the child [38]. Always remember: **the minor's funds are for the minor's needs**. For instance, paying the child's private school tuition is fine; paying your own electric bill from the child's funds is not, unless court-approved for the child's housing benefit.
- **Final Note:** The annual account format is typically on forms (PC 583 or 584) which guide you through listing starting balance, income, expenses, and ending balance. Make sure the ending balance on one year's account matches the starting balance on the next (reconciling any differences). By law, maintaining timely and accurate accounts is not optional – failing to file can result in your removal as conservator. So include **all required information: detailed income, detailed expenses, supporting receipts, balances, and serve it properly** [36] [37].

Q82: *What's the difference between restricted accounts and conservatorships?*

- **Restricted Account (Protective Order):** A **restricted account** is a simpler alternative to a full conservatorship for managing a minor's funds. It usually comes in the form of a court order (sometimes called a protective order) directing that the minor's money be deposited into a **restricted bank account** – an account that the minor (and often the family) **cannot access until the child turns 18** [39] . The court order will specify that **no withdrawals can be made without a judge's approval** [39] . Essentially, the money is locked down for safekeeping. This approach is often used when a minor is receiving a one-time payment (like an insurance payout or small inheritance) and the total isn't very large (Michigan often uses a $5,000 threshold – under that amount, a conservator might not be required at all) [40] [41] . A restricted account protects the funds from misuse but doesn't require ongoing management by a fiduciary beyond possibly an annual statement to the court.
- **Conservatorship:** A **conservatorship**, by contrast, is a formal probate estate management arrangement where a **conservator is appointed** to actively manage the minor's assets. A conservator has legal authority to invest funds, pay bills, and use the assets for the minor's benefit under court supervision [42] . Conservatorships are appropriate when the minor has significant assets, ongoing income, or complex financial needs that require decisions over time. The conservator must file an **inventory** (as discussed) and **annual accountings** detailing every transaction [34] [35] . The court keeps closer oversight through these reports and can intervene if something seems wrong.
- **Key Differences:** One big difference is **flexibility**. In a conservatorship, the conservator can **use funds as needed** for the child (e.g., paying for private school, medical treatments, etc.), as long as it's in the child's best interest and often with court approval for major expenditures. With a **restricted account**, no one can touch the funds for any reason (without petitioning the court). It's literally "hands-off" until the child is 18. This ensures the principal is preserved, but it might be too rigid if the child needs some of the money earlier for, say, college or special needs – every withdrawal would require a court order (which might lead the court to say "maybe you should have a conservator instead").
- **Administrative burden:** Conservatorships involve more **paperwork and responsibility** (accounts, possible bond, etc.), whereas a restricted account is relatively low-maintenance – often the bank just provides an annual statement or the court may require proof the account is still intact. However, a restricted account is only feasible in straightforward situations, typically where funds can just sit and grow. If active management (investing in a portfolio, selling property, etc.) is needed, a restricted account alone won't do; a conservator's powers would be needed.
- **When Each is Used:** In practice, if a minor is getting a moderate sum (for example, a $10,000 inheritance), the court might allow it to be put in a restricted account rather than making someone go through a full conservatorship, as long as an adult is around to ensure the deposit is made. For larger or more complex estates, or when the money might need to be used periodically for the child's upbringing, a conservator is appointed. Note also: sometimes a conservatorship might have *some* assets in restricted accounts (like a blocked account) and others under the conservator's active management. The court has discretion to tailor the approach (for instance, restrict a portion of funds and let the conservator manage the rest for yearly expenses).
- **Summary: Restricted Account = money locked in bank until 18, minimal handling**, good for preserving a fund for adulthood [39] . **Conservatorship = an appointed manager with ongoing duties**, good for situations requiring financial decision-making and expenditures for the child over

time. The choice depends on the circumstances, but importantly, a restricted account is considered a **"less restrictive alternative"** that the court might choose if it adequately protects the child's assets without the need for full conservatorship oversight [43].

Q83: *What happens to conservatorship assets when the child turns 18?*

- **Automatic Termination:** When the minor reaches the age of majority (18 in Michigan), the conservatorship **automatically terminates by operation of law** [44]. At 18, the formerly protected minor is now an adult and entitled to control their own property. The conservator's authority ends, and they can no longer make decisions about the assets. (Similarly, if the minor were to die before 18, the conservatorship would terminate and the assets would go to the minor's estate.)
- **Final Account and Transfer of Assets:** Upon termination at 18, the conservator must **prepare a final accounting** for the court, showing all activity since the last annual account [45]. The court will review and (hopefully) approve this final account. The conservator is then responsible to **turn over all remaining assets to the now-adult ward** [46]. In practice, this means transferring bank accounts into the young adult's name, handing over any personal property, etc. The law often requires the conservator to obtain a **signed receipt** from the 18-year-old confirming they received their assets [46]. This receipt is filed with the court. For example, if $50,000 was in a blocked account, the conservator might withdraw it by court order at termination and give it to the ward, then the ward signs a receipt for $50,000.
- **Discharge of Conservator:** Once the assets are transferred and the final account approved, the conservator can petition for **discharge**, which releases them from their duties and any bond. Essentially the court enters an order that the conservator is relieved of responsibility, having fulfilled their role [47]. This usually happens concurrently with the final account approval. The bond (if any) is released at that point.
- **Use of Funds at 18:** It's worth the guardian explaining to the new adult what's happening. At 18, they might suddenly get control of a large sum of money. Part of the conservator's duty (though not legally required, it's wise) is to **educate the minor** as they approach majority about handling their finances. Some conservators even petition the court for a gradual release (like setting up a trust or structured payout) if the amount is substantial, but that typically must be arranged before the minor turns 18 (since after 18, the money is legally theirs). Without such arrangements, the **18-year-old can do as they wish** with the funds once received.
- **Case Closure:** For the court, the case is closed upon termination. One more thing: Michigan recently has provisions for seamlessly transitioning to adult conservatorship if the individual is incapacitated. But assuming the 18-year-old is capable, the case closes. Probate courts often administratively tickler the minor's 18th birthday to ensure the conservator files for termination. If it doesn't happen, the court will usually send a notice or schedule a hearing to make sure the conservatorship isn't lingering past the child's majority. But legally, the authority ends at 18 regardless [44].
- **Summary:** When the child reaches 18, the conservator must wrap things up: **file a final account, hand over all money/property to the young adult, get a receipt, and get discharged** [46] [47]. At that point, the (former) ward steps into full control of their assets and the court's oversight concludes.

Q84: *Can I change my ward's religion or church?*

- **Guardian's Authority Over Upbringing:** As a guardian, you have broad authority over the child's upbringing, similar to a parent. This includes decisions about **religious upbringing**. You can choose

to involve the child in your religious practices (for example, taking them to the church you attend) or even switch the child to a different faith community if you genuinely believe it's in their best interest. Michigan law doesn't have a specific statute forbidding a guardian from changing a child's religion. In fact, the guardianship statute (MCL 700.5215) gives guardians the powers of a parent regarding the child's care, custody, and control [48] . Deciding on religious attendance and instruction falls under those general powers. So, **legally, yes** – you can decide which church, temple, or mosque the child attends (or decide that they won't participate in religious activities) as part of your day-to-day decision-making [32] .

- **Practical and Ethical Considerations:** However, this authority should be exercised with sensitivity. Religion can be a deeply personal and familial matter. If the child was being raised in a particular faith (say, the parents are of a certain religion) and you intend to change that, consider the child's own ties and comfort. A sudden change could be confusing or upsetting to them, especially during an already tumultuous time being under guardianship. **Best interest of the child** is the guiding star – if maintaining their religious continuity is in their best interest, you should honor that. Conversely, if exposure to a new or your religion provides needed community and support, you can involve them gradually.
- **Parents' Wishes:** Be aware that the child's parents, even though their rights are suspended, may have strong opinions here. While you have the legal right to make the call, a parent who strongly disagrees might take action. They could, for example, **petition the court to modify or terminate the guardianship** on grounds that you are not acting in the child's best interest. A dispute over religion in itself might not get a guardian removed, but if it's part of a larger pattern of clashes or if the child is distressed by it, a judge could certainly take notice.
- **No Court Pre-Approval Required:** You do not need to get a court's permission every time you make a routine upbringing decision, including religious participation. There's no checkbox for "changing religion" in the guardian's reporting forms. So operationally, you can start taking the child to your church (or stop taking them to their prior services) without a court order. Just be prepared to explain your reasoning to the parents or the court investigator if asked. If the child is old enough to have input (for example, a 15-year-old ward might say they want to continue attending their familiar church), it's wise to listen and perhaps compromise. The court would likely appreciate that you are respecting the child's **individual beliefs and heritage**.
- **Bottom Line:** There's **no explicit prohibition** on a guardian guiding a child's religious practices – it falls under your discretion in providing for the child's "care and control" [32] . But with that discretion comes the expectation that you'll do so thoughtfully. It's often best to **keep the child's life as consistent as possible**, so abrupt religious changes can be jarring. If possible, consult with the child (if they're mature enough) and consider informing the parents of your plans to avoid surprise conflict. In any case, if a serious conflict arises over this issue, the court can be the arbiter. In extremis, a parent who feels you're undermining the child's cultural or religious identity could seek your removal, claiming it's not in the child's best interest. So tread kindly and remember: the core of your role is to **act in the child's welfare**, which includes nurturing their spiritual or moral development in a positive way.

Q85: *Do I need permission to take my ward on vacation?*

- **Within Michigan or Short Trips:** For ordinary travel **within the state** or short-term trips out of state, you **do not need prior court approval**. As a guardian, you have the authority to take the child on vacations, visits, or trips just as a parent would. Day trips, weekend getaways, or a week at Disney – none of those require telling the court, as long as these excursions don't conflict with other court

orders (for example, if the parents have visitation rights at certain times, you'd need to accommodate that). There's no Michigan law stopping a guardian from traveling with the child.

- **Out-of-State Travel: Temporary out-of-state travel** (like a vacation to another state or even abroad) is generally permitted without a court order. The key distinction is **temporary vs. permanent relocation**. Michigan law specifies that a guardian must get a court order before **moving the child's permanent residence out of Michigan** [49] . But going on a two-week vacation to Florida, for instance, isn't a permanent move – it's temporary, and you fully intend to return. Therefore, you wouldn't be violating the rule. It's wise, however, to carry copies of your Letters of Guardianship when traveling, especially out of state, in case you need to prove you have authority to make medical decisions or deal with emergencies for the child while away.
- **International Travel:** If you plan to travel internationally with the child, you still don't typically need court permission, but you will need practical things like the child's passport (and possibly parental consent for the passport). Guardians can apply for a passport for the child – you may need to show your guardianship papers as part of that process. Some countries might ask for a notarized letter of permission from parents for a minor to travel, so having something like that (or the court order) could be useful. But legally, the Michigan probate court isn't involved unless someone raises an objection. If a parent is opposed to you taking the child abroad, *then* it could become a court issue (the parent might file an emergency motion). So it's a good idea to communicate with the parents if feasible.
- **Extended Absences:** If your "vacation" is really an extended stay (say the child will be with you out of Michigan for several months), at some point the court might consider that more than a vacation. The general guideline is if you're changing the child's residence to another state (enrolling them in school out of state, for example), that crosses into needing court approval [49] . But a summer vacation out of state, after which the child returns home, is fine. If in doubt, you can always inform the court via a guardian's report or a quick letter, but it's not usually required.
- **Parenting Time Considerations:** One area to watch is if the child's parents have court-ordered parenting time or visitation as part of a guardianship arrangement or a prior custody order. As guardian, you shouldn't unreasonably deny visitation. So if a vacation will cause the child to miss a scheduled visit with mom or dad, it's best to get the parent's agreement or a court's OK. Often, reasonable people can work out a swapped weekend or additional time before/after the trip. The court would appreciate that you tried to accommodate the parents.
- **Conclusion: Vacations are generally under your discretion** as guardian. Part of providing a normal life for a child is being able to travel and have holidays. The court only cares if you plan to *relocate* the child's home base. So feel free to plan that trip – just ensure you continue to act in the child's best interest (safe destination, appropriate supervision, etc.), and be back in Michigan for any necessary court dates or parent visits. No court order is needed for a fun family vacation! [49]

Q86: *What happens if the guardian dies while serving?*

- **Automatic Termination of Guardianship:** If a guardian passes away during the guardianship, the **guardianship itself terminates at that moment** with respect to that guardian [50] . In other words, the guardian's authority is immediately void upon their death – they obviously can no longer act. Importantly, the minor does **not** automatically go back to their parents (unless the court orders so) and is not left without protection of the court. Practically, it means there's now **no active guardian** for the child, and the situation needs to be addressed promptly.
- **Notification and Interim Care:** Typically, when a guardian dies, any interested person (a family member, the minor if old enough, etc.) should **notify the probate court** as soon as possible. Often

the court finds out because someone files a petition or the family contacts the court. In the interim, whoever is caring for the child (maybe the guardian's spouse or another relative) should continue meeting the child's immediate needs. The letters of guardianship for the deceased guardian are no longer valid, so that interim caregiver might have difficulty, for example, consenting to medical treatment or enrolling the child in school – this is why acting quickly to get a new guardian appointed is important.

- **Successor Guardian Appointment:** To formally restore guardianship, an **interested person can petition the court to appoint a successor guardian** [51] . This could be the standby guardian named in the prior guardian's will (if any), or another family member who steps up. The court will handle this similar to an initial guardianship petition: a hearing will be set (though it may be expedited given the situation), and notice given to interested parties. The parents might also petition to regain custody at this point, depending on their circumstances. The court's priority is to ensure the child has a stable legal caregiver as soon as feasible. In many cases, a temporary (emergency) guardian can be appointed in the meantime if needed.
- **Resignation vs. Death:** Note that the death of a guardian is treated like a resignation or removal – it's one of the automatic termination events listed in the law [50] . The prior guardian's estate or family should **provide a copy of the death certificate to the court** (some counties explicitly require this within a set time, like 14 days, to close the file on that guardian). This is so the court can officially acknowledge the termination and clear any future accountings that would have been due by the guardian, etc.
- **No Gap in Oversight:** While there may be a gap in an active guardian, the court itself maintains jurisdiction over the child until a new guardian or other resolution is in place. In a practical sense, if the guardian dies and no immediate successor is there, the child's situation reverts to the status before guardianship (often that means back in the parents' care by default). But if that's not safe or possible, the court can even place the child temporarily (like with a protective order or foster care) until a new guardian is appointed. It's a bit of an emergency scenario.
- **Plan Ahead if Possible:** This question highlights why some guardianships have co-guardians or a named successor in the initial petition. If, for example, grandparents were guardians and one grandparent dies, sometimes the other was a co-guardian already, so that softens the disruption. If you are a sole guardian, it's wise to think about who you'd want to take over if something happens to you, and you can state that in writing (though the court isn't bound by it, your nomination would be considered).
- **Summary: The guardian's death ends their tenure** [52] , and the child is left without an active guardian until the court appoints another. Family or interested parties should move quickly to petition for a new guardian so the child has continuous care. The probate court will prioritize such a petition due to the urgency of a minor with no guardian. In the meantime, whoever is caring for the child day-to-day should keep the child safe and meet needs, and probably seek temporary legal authority if the gap will be more than a very brief period.

Q87: *What if the parents and guardian disagree about the child's care?*

- **Guardian's Decision-Making Authority:** When a guardianship is in place, the **guardian has the legal authority to make decisions** about the child's care, even if the parents disagree. The parents' rights are **suspended** (in a full guardianship) or voluntarily put on hold (in a limited guardianship), so the guardian's decisions on daily matters – schooling, medical care, routines – are generally controlling. For example, if a guardian decides the child should not visit a certain friend or needs a

certain bedtime, they can enforce that, and a parent's objections don't carry legal weight day-to-day. This can naturally lead to friction if the parents are still involved in the child's life.

- **Open Communication:** Ideally, the guardian will **communicate and cooperate** with the parents to avoid clashes. Remember, the goal is the child's best interest, and usually maintaining a good relationship with the parents (if it's safe) is part of that. Many disagreements can be resolved by discussion or compromise – for instance, if a parent disagrees with a medical treatment, the guardian can explain the recommendations from doctors. But ultimately, if it's within the guardian's purview, they can make the call. Only if it's something extraordinary (like consenting to adoption, which a limited guardian cannot do, or moving out of state) would the parent's stance legally prevent the guardian's action.
- **Legal Recourse for Parents:** If a disagreement is serious and the parents believe the guardian's decision is harming the child or is contrary to the child's welfare, the parents (or any "interested person") can **petition the court to intervene**. They have a couple of options: they can petition to **modify the guardianship** (for example, set specific terms like allowing the parent more say in educational decisions) or even to **remove the guardian or terminate the guardianship** if they feel the guardian is not acting in the child's best interests. The court will then hold a hearing and evaluate the situation. The Michigan statute allows interested persons (parents are certainly interested persons) to seek removal of a guardian for *good cause* – essentially, if the guardian isn't performing their duties or if the arrangement is no longer beneficial [53].
- **Examples:** Say the guardian wants to enroll the child in a school far away and the parent thinks it's disruptive – the parent can object and, if unresolved, ask the judge to decide. Or if a guardian is keeping the child from all contact with a parent without a good reason, the parent can ask the court to enforce or grant **parenting time** or change the guardian. The court might then set some rules in the guardianship order (e.g., "parent is allowed phone calls twice a week" or "guardian must consult with parent on major medical decisions"). Keep in mind, though, the court gave the guardian authority for a reason, so it will want to see that reason still exists if the parents challenge it.
- **Best Interests and Mediation:** The guiding principle will always be the child's best interests. The judge will not referee every minor disagreement – they expect the adults to behave reasonably. In fact, some probate courts encourage **mediation** in these circumstances to work out a parenting plan that all can accept within the guardianship. If a parent's disagreement is more about pride or minor differences in style, the court likely won't change the guardian's decision. But if the guardian's action truly seems adverse to the child (in the court's view), the court can step in and even replace the guardian if necessary [54].
- **Plan in Advance:** It's wise for guardians at the outset to have clear expectations with the parents. Many limited guardianships come with a **placement plan** that might detail certain aspects (like the parents will continue to make certain decisions, or have visitation on weekends). In full guardianships, such plans aren't automatic, but a court can still incorporate agreements or orders about parental involvement. The more everyone understands their role, the fewer disputes. But when disputes happen, the **probate court is the ultimate forum** to resolve them. Parents should use it rather than resorting to self-help (like taking the child without permission), which could be viewed negatively by the judge.
- **Conclusion:** If disagreements arise, **try collaboration first**, but remember the guardian has the immediate authority. If it's a significant issue that can't be resolved, **bring it to the court**. The court can modify the guardianship or even end it if that's truly best for the child. The key is always focusing on the child's welfare, not the adults' pride or convenience.

Q88: *I filed for guardianship but changed my mind. Can I withdraw?*

- **Yes, Petition Can Be Withdrawn:** Until a court actually grants the guardianship and issues an order, you as the petitioner have the ability to **withdraw or dismiss your petition**. If you no longer wish to pursue guardianship (for example, perhaps the family situation improved or you resolved concerns in another way), you should inform the probate court as soon as possible. Practically, this means filing a brief statement or motion to withdraw your petition, or appearing on the hearing date and telling the judge you no longer want to go forward. The court will then dismiss the petition.
- **No Guardianship in Effect:** Since you changed your mind **before** a guardian was appointed, no transfer of custody has legally happened. By withdrawing the petition, you're essentially ending the court process and things remain as they were – the parents keep their rights (or if there was a prior guardian, that remains unchanged). There is no penalty for doing this; courts understand circumstances change. It's better to withdraw than to obtain a guardianship you don't really want and then immediately resign.
- **Timeliness:** If you have an upcoming hearing scheduled, it's courteous to notify the court and interested parties (parents, etc.) *before* the hearing that you intend to withdraw. This can often be done by filing a document like "Petitioner's Notice of Withdrawal of Petition" and also calling the probate court clerk. If you simply don't show up at the hearing, the judge will likely dismiss the case due to "no appearance" on your part – which accomplishes the same end, but it's less polite and could waste others' time. So formally withdrawing is the proper step.
- **Partial Change of Mind:** Sometimes people change their mind about being guardian but still feel the child needs one. In that scenario, you might withdraw *your* petition but encourage someone else to petition, or you might ask the court to substitute another suitable petitioner. However, the court can't just appoint someone else if no one has asked and qualified; a new petition would generally be needed from that person.
- **If Guardianship Already Granted:** If you had already been appointed as guardian and then change your mind (i.e., you want to step down), that's a different process: you'd have to petition to resign as guardian. The court would need to appoint a successor or terminate the guardianship, ensuring the child isn't left without a guardian. But since your question implies the guardianship isn't granted yet, you're in the clear to simply stop the process.
- **After Withdrawal:** Once withdrawn, if at a later time you decide the child does need a guardian after all, you would have to start over with a new petition. The court doesn't hold it against you that you withdrew previously, especially if circumstances were fluid. Just make sure that in the interim, the child's needs are being met by the parents or others – if you withdraw and the situation for the child is still unsafe, consider alerting Child Protective Services or another family member who might step in.
- **Summary: You are free to withdraw your guardianship petition** prior to an order being made. Simply notify the court (in writing ideally) that you no longer wish to pursue it, and the case will be dismissed. It's a straightforward process – no guardianship will be established, and you won't have any obligations as a guardian since you never became one. It's always better to withdraw than to go forward half-heartedly. The court and the family will appreciate the clarity.

Q89: *My 12-year-old grandson is being neglected and locked out of the house at night right now. How fast can the probate court appoint an emergency guardian, and how long will that appointment last before another hearing is required?*

- **Speed of Emergency Appointment:** In a crisis situation like this, the probate court can act **very quickly** – potentially **within hours or days**. If you file a petition for a guardianship and clearly describe the emergency (e.g., "child is being locked out at night; immediate protection is needed"), the court has the power to appoint a **Temporary Guardian ex parte (without a full hearing)** almost immediately [55] [5] . Many courts keep slots for emergency hearings or will have the on-call judge review petitions for emergency relief the same day. Given the urgency (a child in immediate harm), you could see an **emergency guardian appointed the same day or within 24–48 hours** of filing, depending on the county's procedures. In some cases, people have obtained ex parte temporary guardianship orders **the very day** they walk into court with evidence of danger. You should contact the court as soon as possible to alert them that this is an emergency – often there are specific forms or a way to highlight the emergency in your petition.
- **Ex Parte Order and Notice:** If the judge grants a temporary guardianship ex parte, that means **you (or whoever is appointed) immediately become the guardian** upon entry of the order – no prior notice was given to the parents because of the emergency [5] . The court will then **immediately issue a Notice of Temporary Guardianship Appointment (form PC 672)** to all interested persons (parents, etc.) letting them know what happened [6] . So, practically, you could get a phone call or an order saying "You are now the temporary guardian, come pick up Letters of Guardianship." This addresses the immediate crisis – you can then lawfully take the child into your care, enter the home to retrieve their belongings, enroll them in school, etc., without the parents' consent.
- **Follow-Up Hearing Timeline:** After an ex parte emergency appointment, the law **requires a prompt court hearing** if anyone objects. Specifically, if a parent or another interested person files an objection to the temporary guardianship, the court must hold a hearing **within 14 days** to decide whether the temporary guardianship should continue [7] . Even if no one objects, the court will still need to move forward with the regular guardianship process (which includes a full hearing) relatively soon – often the temporary order is designed just to bridge the gap until a full hearing on the **full guardianship** can be held (usually within a few weeks). So, you can expect that a **full hearing will be set very quickly**, sometimes automatically within that 14-day window regardless of objections, to solidify a long-term solution. You'll get a Notice of Hearing for the guardianship petition proper, and at that hearing the judge will hear evidence and decide on a permanent guardianship.
- **Duration of Temporary Guardianship:** By statute, a **temporary (emergency) guardianship for a minor lasts no more than 6 months** [8] . That's the absolute cap. However, in a case like this, you wouldn't expect the temporary phase to last nearly that long. Usually, the court intends the emergency guardian to hold things together only until the full guardianship can be established or alternative arrangements are made. In many cases, the temporary guardianship might only be in place for a matter of a few weeks before it's either replaced by a regular guardianship order or dissolved if found unnecessary. But if, say, the parents need time to rehabilitate and the court wants the guardianship to remain temporary, remember that 6 months is the max without converting to a full guardianship [8] .
- **Scenario Resolution:** In your scenario, since the child is in clear and present danger, you should file **immediately** (do not wait). The court can appoint you (for example) as **Temporary Guardian today**, allowing you to take custody of your grandson right away. Then, a **hearing will be held within**

about two weeks where the parents can respond. If the parents are truly neglectful and unable to provide proper care, the court will likely then convert that into a full guardianship (which can last indefinitely until parents show improvement or the child turns 18). The emergency order fills the gap so the child is safe *tonight*. After the hearing, if the guardianship continues, it will just continue under the full guardianship order rather than the temporary one. If by some chance no full hearing occurs (which is unlikely), the temporary letters would expire in 6 months at most [8].

- **Important:** In cases of severe neglect or abuse like this, sometimes Child Protective Services (CPS) gets involved in parallel with the guardianship. The probate temporary guardianship is a civil remedy; if CPS finds imminent danger, they might pursue a removal through juvenile court as well. But pursuing the guardianship does not preclude that – it's often faster and less traumatic if a family member steps in via guardianship than having the child go into foster care. Courts appreciate family members who step up. So act quickly, provide any evidence (photos, neighbor statements, etc.), and you can expect the probate judge to act **very swiftly** to protect your grandson.

Q90: *If the court grants an emergency guardianship for a minor in Genesee County, does the guardian automatically stay in place after 28 days or is a new petition required?*

- **No Automatic 28-Day Expiration (for Local Cases):** In Michigan minor guardianships, an emergency or temporary guardian **does not automatically lose authority after 28 days**. The "28 days" rule might be confusion from another context – for adult guardianships or guardians appointed in other states. For a minor, once a temporary guardian is appointed by a Michigan probate court, that guardianship remains effective (up to the 6-month limit) until the court modifies or terminates it. You do **not** need to file a new petition after 28 days to "renew" the guardianship. The temporary guardian will continue to have legal authority beyond 28 days, provided the court hasn't indicated otherwise. The key timeline for minors is the **6-month maximum** on temporary letters [8], not 28 days.
- **Origin of 28 Days – Different Scenario:** The 28-day figure comes into play primarily in two situations: (1) **Adult emergency guardianships**, where a temporary guardian for an incapacitated adult expires in 28 days unless extended; and (2) **Recognition of foreign guardianships** for minors, as per MCL 700.5202a, which says if a guardian was appointed in another state, Michigan can issue temporary guardianship papers valid for 28 days [56]. In the latter case, within that 28 days the guardian is expected to file a Michigan petition if they want continued authority. However, that is a very specific situation (out-of-state guardian). If your case is a normal Genesee County minor guardianship started here, those conditions don't apply. The 28-day rule is *not* a general requirement for minor guardianships initiated in Michigan [57].
- **What Actually Happens After Appointment:** After a temporary guardian is appointed (ex parte), the next step is usually a hearing (as we discussed). If that hearing happens within a couple of weeks, the court will decide to either end the guardianship or continue it (often by converting to a full guardianship). There isn't a scenario in a minor guardianship where the temporary order just "drops dead" at 28 days leaving a gap. Either the court will have held a hearing by then, or if the hearing is scheduled a bit later, the temporary letters remain valid until that hearing (again, up to 6 months if needed). You wouldn't file a "new petition" – you already have a petition on file (the one that got you the temp guardianship) and the court is working through that case.
- **If No Objection and No Hearing by 28 Days:** In Genesee County, typically they move quickly enough that this doesn't happen. But suppose no one objected and for some scheduling reason the

full hearing isn't until, say, day 35. The temporary guardian would still be the guardian on day 29, day 30, etc., because the court's order remains in effect. The only time 28 days would cut it off is if it was an out-of-state guardian scenario (those letters explicitly say they expire in 28 days [57]). A locally appointed temporary guardian's letters will usually say they are valid until a certain date or "until further order of the court" – not a hard 28-day expiration. Always read the order or letters: if the judge intended a short duration, it will be spelled out. But absent that, you continue on.

- **Full Guardianship Petition Already in Play:** Remember, the emergency guardianship (temporary) is not a separate case from the full guardianship – it's a step within the same case. The initial petition you filed likely asked for a full guardianship and included a request for emergency appointment. So you don't need a new petition; you just need to follow up with the process (attendance at the scheduled hearing, etc.). As long as that process is ongoing, your temporary guardianship bridges the gap.
- **Conclusion:** For a minor emergency guardianship granted in Genesee County, the temporary guardian **stays in place beyond 28 days**; there's no automatic cutoff at that 4-week mark requiring a new filing. The guardian's authority will continue until the next court hearing where a judge either makes the guardianship permanent (full) or dissolves it. The only 28-day consideration is if this were a guardian coming from another state, in which case yes, a new Michigan petition within 28 days is required [57]. But in a typical local case, rest assured the emergency guardian remains authorized throughout the interim period without re-petitioning – just be mindful of attending the follow-up hearing, and know that ultimately a temporary guardianship can only last up to 6 months by law [8].

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[1] [3] [34] [35] [36] [37] [38] [39] [40] [41] [42] [43] [44] [45] [46] [47] 9. Managing a Minor's Assets – Conservatorships and Financial Considerations (Draft 2) copy.docx
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[2] [22] [32] [33] [48] [49] 6. Duties and Responsibilities of a Guardian of a Minor (Draft 2) copy.docx
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[4] [5] [6] [7] [8] [12] [21] [56] [57] 5. Temporary Guardianships – Emergency and Interim Care (Draft 2)-2 copy.docx
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[9] [10] 4. Guardianship of Indian Children – ICWA_MIFPA Requirements (Draft 2)-2 copy.docx
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[11] [18] [19] [26] 2. Full Guardianship of a Minor – Eligibility and Process copy.docx
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[13] [14] [15] [20] 1. Overview of Minor Guardianships in Michigan (Draft 2)-2-2 copy.docx
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[16] [31] [55] Document 8_ Filing for Guardianship – Court Procedures and Forms.docx
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[17] [23] [24] [25] 3. Limited Guardianship of a Minor – Voluntary Arrangement (Draft 2) copy.docx
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[27] [28] [29] [30] [50] [52] [53] [54] 7. Ending or Changing a Guardianship (Termination & Modification) (Draft 2)-2 copy.docx
file://file-36sYqSxmE73BwLtBTFUjzW

51 [PDF] Introduction to Conservatorships & Guardianships - Michigan Courts
https://www.courts.michigan.gov/4ac12f/siteassets/publications/benchbooks/qrms/probate/introduction-to-conservatorships-and-guardianships.pdf