

A juvenile guardianship is an alternative permanency plan that provides the child with a secure attachment to an appropriate caregiver. The court may appoint a juvenile guardianship pre- or post-termination of parental rights. The Department of Human Services may provide juvenile guardianship assistance payments in eligible cases (the court may not order DHS to provide guardianship assistance payments). Certain juvenile guardianships may qualify for extended guardianship assistance, until the child is age 21. In those cases, it is important that the court not terminate jurisdiction before DHS determines if the case will qualify for extended guardianship assistance, as that action will negate the child's eligibility.

## APPOINTMENT OF JUVENILE GUARDIAN—PROCEDURAL ISSUES

- A Juvenile Guardian may be appointed at a pre-termination permanency planning hearing, or a post-termination review hearing. No petition is required.
- At a pre-termination permanency planning hearing, in considering a juvenile guardianship, the court must first determine that reunification and termination of parental rights are not appropriate permanency options.
- The court must order DHS to do the following:
  - Investigate the guardian and residents of the guardian's home and file a report with the court within 28 days.
  - Complete a criminal history and central registry clearance within 7 days.
- If the child is an MCI ward, written consent must be obtained from the MCI Superintendent before appointing a juvenile guardian. MCI consent must be filed with the court no later than 28 days following the permanency planning hearing or the post-termination review hearing.
  - If consent is withheld, the court may approve the guardianship only after a hearing where the court finds by clear and convincing evidence that the decision to withhold consent was arbitrary or capricious.
- The court must determine if the appointment of a conservatorship is also necessary given the assets to be under the guardian's control.
- The court's jurisdiction under MCL 712A.2(b) (child protection proceeding) terminates after the court appoints a juvenile guardianship and conducts a review hearing. Concurrently, a new case is opened for the juvenile guardianship case using case code JG.
- The appointment of an LGAL in the child protective proceeding terminates upon termination of jurisdiction under 712A.2(b). However, the court may re-appoint an LGAL if warranted.

## JUVENILE GUARDIANSHIP ASSISTANCE (MCL 722.871-881)

- DHS may provide guardianship assistance payments if:
  - The child has resided in the prospective guardian's home for at least 6 consecutive months.
  - Reunification and adoption have been ruled out as appropriate permanency options.
  - There is a strong attachment and commitment to caring permanently for the child.
  - If the child is age 14 or older, the child has been consulted.
  - Other eligibility criteria can be found in MCL 700.874.

## DUTIES AND AUTHORITY OF GUARDIAN

- A juvenile guardian has all the powers and duties of a guardian as set forth section 5215 of the Estates and Protected Individuals Code, MCL 700.5215.
- The guardian must file a written report with the court annually within 56 days after the anniversary of the appointment, and at other times as the court may order.
- The guardian must keep the court informed in writing within 7 days of any change in the juvenile guardian's address.
- The guardian must provide the court and all other interested persons with written notice within 14 days of the child's death.
- The court may impose restrictions on the guardianship, which must be included in the Letters of Authority.

## REVIEW HEARINGS

- The court must conduct an annual review of the juvenile guardianship. The reviews must begin within 63 days after the anniversary date of the appointment of the guardian.
- During the hearings the court should review the status of the child's:
  - Physical health
  - Mental health
  - Education
- If extended guardianship assistance is being provided under the Young Adult Voluntary Foster Care Act, the court must hold a hearing to ensure the guardianship meets the criteria under MCL 400.665.

Continued on Back →

## REQUIRED ACTIONS WHEN APPOINTING A JUVENILE GUARDIAN

- For pre-termination juvenile guardianships, the court must rule out reunification with the child's family and termination of parental rights before considering a juvenile guardianship.
- The court must find that a juvenile guardianship is in the child's best interests.
- The court must enter a separate juvenile guardianship order for each child in the case. SCAO Form JC 91.
- The juvenile guardian must file an acceptance of appointment. SCAO Form JC 92.
- On the filing of the acceptance of appointment, the court must issue letters of authority. SCAO Form JC 93.  
The court must terminate jurisdiction over the abuse/neglect case after appointing a guardian and holding a review hearing. The court must then open a juvenile guardianship (JG) case.
- The juvenile guardian must file an annual report on the condition of the child. SCAO Form JC 94.
- The court must conduct an annual review, which may be a review of the guardian's annual report.
- If the child is receiving extended guardianship assistance payments (from age 18-21), the court must conduct a review hearing every 12 months after the youth's 18th birthday.
- The court may appoint DHS or another person to conduct an investigation of the juvenile guardianship. SCAO Form JC 95.
  - The investigator must file a written report within 28 days using SCAO Form JC 96.

## REVOCATION OR TERMINATION OF JUVENILE GUARDIANSHIP

- The court on its own motion, or upon petition of DHS, LGAL, juvenile guardian, or other interested person may revoke or terminate the juvenile guardianship.
- A hearing must be held within 28 days of the petition being filed.
- The court may order the temporary removal of a child to protect the health, safety, or welfare of the child pending a revocation/termination hearing. Proceed under the Emergency Removal proceedings.
- The court shall order DHS to perform an investigation and file a written report detailing the reasons to revoke or terminate within 7 days of a hearing on petition to revoke or terminate the guardianship. The report shall also include a recommendation regarding temporary placement, if necessary.
- All interested persons must be given notice of the hearing. The court may proceed in the absence of an interested party, so long as proper notice was given.
- Where guardianship is revoked, or terminated without a successor juvenile guardian appointed, the court shall place the child with DHS for care and supervision and reinstate jurisdiction under MCL 712A.2(b).
- The court must hold a dispositional review hearing pursuant to MCR 3.973 or 3.978 within 42 days of revocation of a juvenile guardianship. DHS must prepare and file a case service plan at least 7 days before the hearing. Additional review hearings shall be conducted pursuant to MCR 3.974 and 3.975.

Note: Distinction between revocation and termination of juvenile guardianship:

- A juvenile guardian or other interested person may petition to terminate the guardianship, which may include a request for a successor guardian.
- DHS, the LGAL, or the court on its own motion, may petition to revoke the guardianship, which causes the underlying abuse/neglect case to reopen.

## REQUIRED FINDINGS—REVOCATION/TERMINATION OF JUVENILE GUARDIANSHIP

- Required findings for **revocation** of guardianship:
  - Preponderance of the evidence that continuation of guardianship is not in the child's best interest
  - Contrary to the welfare of the child to be placed in or remain in the juvenile guardian's home
  - Reasonable efforts were made to prevent removal.
- Required findings for **termination** of guardianship:
  - It is in the child's best interests to terminate the guardianship.