

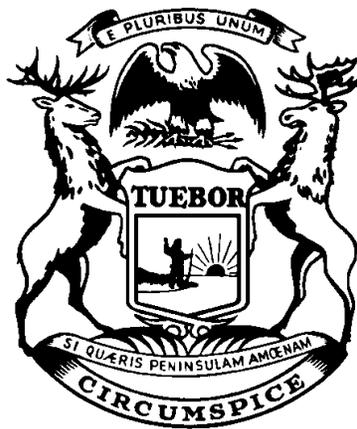
Sanilac County

PROBATE COURT

Case Filing Guide
for guardianship, conservatorship and mental health cases

Last updated March 2023

A summary guide to assist the public with filing petitions for mental health treatment, guardianship and conservatorship cases



This guide is not intended to be authoritative or legal advice by the County of Sanilac, the probate court, or its staff. For assistance, please contact an attorney.

ACKNOWLEDGEMENT

Honorable Gregory S. Ross was elected in 2008 to the district court and became the probate court judge in 2012. Judge Ross has been instrumental in implementing interception efforts involving persons who experience mental illness. The probate court gratefully acknowledges the time and helpful advice provided by probate court staff.

PURPOSE

This guide was created to provide basic information to the general public, local agencies and organizations. It is meant to use as a tool to assist in filing selected mental health-related cases with the probate court. It is not a substitute for legal advice.

SANILAC COUNTY PROBATE COURT

60 West Sanilac Avenue

2nd floor, Room 213

Sandusky, Michigan, 48471

Phone: 810-648-3221 Fax: 810-648-2900

email: probatereg@sanilacounty.net

Hours: 8:00 a.m. to 4:30 p.m., Monday Through Friday

Closed 12:00 p.m. - 1:00 p.m.

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COMMON TO ALL CASES

SELF REPRESENTATION

A "pro per" litigant is a person who represents himself/herself rather than hiring an attorney.

A person acting on his or her own behalf is held to the same standards and duties as an attorney admitted to the practice of law in the State of Michigan. Pro per individuals are expected to know what the law requires and how to accomplish his or her purposes in accordance with the applicable laws/rules.

Court staff are not allowed to provide legal advice, but, court staff may provide procedural information such as:

- day and time when hearings are held;
- websites where forms may be found; or
- general information about court operations.

Helpful Information:

- [Michigan Legal Help](https://michiganlegalhelp.org/) <https://michiganlegalhelp.org/>
- State Court Administrative Office: <https://www.courts.michigan.gov/courts/trial-courts/>
- Forms: <https://www.courts.michigan.gov/SCAO-forms/>
- Chapter 2 and 5 of the Michigan Court Rules <https://www.courts.michigan.gov/rules-administrative-orders-and-jury-instructions/current-rules-and-jury-instructions/michigan-court-rules/>
- Estates and Protected Individuals Code (EPIC) <http://legislature.mi.gov/doc.aspx?mcl-Act-386-of-1998>
- [State Bar of Michigan](https://www.michbar.org/) <https://www.michbar.org/>
- State Court Administrative Office Self-Help Center <https://www.courts.michigan.gov/resources-for-the-public/self-represented-litigants/>
- Powers of Attorney: <https://www.cooley.edu/academics/kimble-center-writing>

HEARINGS

To obtain a hearing date, contact the probate court. If a party wants to appear remotely, a request in writing must be made to the probate court and the party must notify all other interested parties of the intent to appear remotely. Parties must appear in-person for trials.

EVIDENCE

It is the parties' responsibility to provide evidence required by law.

ONLINE FORMS

Online forms can be found on the Michigan One Court of Justice [website](#). If you do not have access to the internet, your local library may provide access to the public. The probate court charges \$1.00 per form.

LEGAL HELP

The probate staff cannot give legal advice and cannot complete forms for you. You should seek the assistance of an attorney. Additionally, you may find self-help information at www.michiganlegalhelp.org or <http://lrs.michbar.org/>.

FEES, WAIVER OF FEES/PAYMENT PLAN

Court appointed attorney fees are billed to the court at \$100.00 an hour. Guardian ad Litem fees are billed to the court at a flat fee of \$75.00 for an in-county visit and \$125.00 for an out-of-county visit. The court will bill these fees to the petitioner and/or the protected person's estate. Copies are \$1.00 per page. Certified copy of a document is \$10.00. Copy fees are payable at the time the copy is provided. If you cannot afford filing fees, you can complete and file form MC 20 (See Online Forms above) with your petition. A payment plan is available for those that qualify.

STATUTES

Statutes can be found on the Michigan Legislature [website](#). The applicable statutes are noted at the bottom of each court form.

COURT RULES

Court rules can be found on the One Court of Justice [website](#). The applicable court rules are noted at the bottom of each court form.

INTERESTED PERSONS

Interested persons are defined in Chapter 5 of the Michigan Court Rules. See link above.

FREQUENTLY ASKED QUESTIONS

What are court rules? The Michigan Court Rules (MCR) govern practice and procedure in all courts established by the constitution and laws of the State of Michigan. Court rules cover such topics as service, interested parties, hearings, appeals, jury trials and more. Click [here](#) to access the Michigan Court Rules.

What are statutes? Statutes are laws. The Mental Health Code, Act 258 of 1974, are laws concerning mental health and is codified under Chapter 330. Click [here](#) to view the Mental Health Code. Conservatorships and guardianships for legally incapacitated individuals are governed by the Estates and Protected Individuals Code (EPIC). Click [here](#) to view the statutes governing conservatorships and guardianships of legally incapacitated individuals.

What does “legally incapacitated individual” mean? An “incapacitated individual” is an individual who is impaired by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, or other cause, not including minority, to the extent of lacking sufficient understanding or capacity to make or communicate informed decisions. A “legally incapacitated individual” means an individual, other than a minor, for whom a guardian is appointed under this act or an individual, other than a minor, who has been adjudged by a court to be an incapacitated individual.

Who is a petitioner? A petitioner is the person who signs the petition and starts the proceedings with the court.

Who are “interested parties”? The Michigan Court Rules state who the interested parties are for each type of case. The interested parties vary depending on the type of case. Please visit the Michigan Court Rules website for more information.

What is a guardian? A guardian refers to a person appointed by the probate court to make decisions on behalf of a person.

What is a conservator? A conservator is a person appointed by the probate court to make financial decisions on behalf of a person.

What is a representative payee? A representative payee is someone approved by the Social Security Administration to manage the money a person receives from Social Security.

ADULT MENTAL HEALTH TREATMENT PETITION

If you are seeking mental health treatment for yourself or for someone else, please contact Sanilac County Community Mental Health (CMH), 227 E. Sanilac Ave, Sandusky, Michigan 48471, 810-648-0330, for assistance. CMH has a 24-hour crisis line - toll free: (888) 225-4447 and toll free TTY: (888) 225-16973. They also have an access center for non-emergency calls -- toll free: (888) 225-4447. The information below is only to initiate a case. More forms may be required.

FILING FEE & OTHER COSTS:

No filing fee. The person that is the subject of the petition may be billed for court appointed attorney fees. See “common to all cases” above for additional information on waiving fees or setting up a payment plan

ATTORNEY:

The person who is the subject of the petition will be appointed an attorney by the court.

FORMS NEEDED TO START A CASE:

- Petition for Mental Health Treatment.
- Notice of Inability to Secure Evaluation/Exam. (for assisted outpatient treatment only)
- Order for Examination/Transport. The court will prepare this form.

ADDITIONAL INFORMATION:

If you believe a petition for mental health treatment should be filed, we recommend contacting Community Mental Health for assistance.

ADULT GUARDIANSHIP - LEGALLY INCAPACITATED INDIVIDUAL

A guardianship is needed when a formerly competent adult lacks the understanding or ability to make or communicate informed decisions. Options to a full guardianship may include a durable power of attorney, health care power of attorney, do not resuscitate order, physician's order for scope of treatment or a limited guardianship. See the State Court Administrative Office's brochure [Options You Should Know Before Filing a Petition for a Full Adult Guardianship](#) for more information. To learn more about adult guardianships for a legally incapacitated individual, visit the State Bar of Michigan's or Michigan Legal Help's websites. (See Common to All Cases, Page 1).

FILING FEE AND OTHER COSTS:

The filing fee is \$175.00. The person that is subject of the petition may be billed for court appointed attorney fees and/or guardian ad litem fees. See "Common to All Cases, Page 1" for additional information on fees, waiving fees or setting up a payment plan.

GUARDIAN AD LITEM/ATTORNEY:

The court appoints a guardian ad litem to visit the alleged legally incapacitated individual and serve the individual copies of court documents. The guardian ad litem will report any findings to the court and make a recommendation regarding the proposed guardianship. If the guardian ad litem finds that the individual needs an attorney as required by law, then the court will appoint an attorney for the individual. The court will also appoint an attorney for the individual if the individual is the petitioner in a new guardianship proceeding or petitions for modification/termination of the existing guardianship.

FORMS NEEDED TO START A CASE:

- PC 666 Options You Should Know Before Filing a Petition for a Full Adult Guardianship.
- PC 625 Petition for Appointment of a Guardian.
- PC 562 Notice of hearing.
- PC 571 Acceptance of Appointment.
- PC 564 Proof of service. The petitioner is responsible for serving all interested parties and filing the proof of service with the court.
- PC 630 Report of Physician or Mental Health Professional.
- MC 97 & 97a Protected Personal Identifying Information (if necessary)

ADULT GUARDIANSHIP - DEVELOPMENTALLY DISABLED

"Developmental disability" means either of the following:

- (a) If applied to an individual older than 5 years of age, a severe, chronic condition that meets all of the following requirements:
- (i) Is attributable to a mental or physical impairment or a combination of mental and physical impairments.
 - (ii) Is manifested before the individual is 22 years old.
 - (iii) Is likely to continue indefinitely.
 - (iv) Results in substantial functional limitations in 3 or more of the following areas of major life activity:
 - (A) Self-care.
 - (B) Receptive and expressive language.
 - (C) Learning.
 - (D) Mobility.
 - (E) Self-direction.
 - (F) Capacity for independent living.
 - (G) Economic self-sufficiency.
 - (v) Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.
- (b) If applied to a minor from birth to 5 years of age, a substantial developmental delay or a specific congenital or acquired condition with a high probability of resulting in developmental disability as defined in subdivision (a) if services are not provided. MCL 330.1100a(25)

To learn more about adult guardianships for a developmentally disabled individual, visit the State Bar of Michigan's or Michigan Legal Help's websites. (See Common to All Cases, Page 1).

FILING FEE AND OTHER COSTS:

No filing fee. The person that is subject of the petition may be billed for court appointed attorney fees and/or guardian ad litem fees. See "Common to All Cases, Page 1" for additional information on fees, waiving fees or setting up a payment plan.

GUARDIAN AD LITEM/ATTORNEY:

The person who is subject of the petition will be appointed an attorney by the court. A guardian ad litem may be appointed under certain circumstances.

FORMS NEEDED TO START A CASE:

- PC658 Petition for Appointment of Guardian.
- PC562 Notice of Hearing.
- PC564 Proof of Service.
- PC659 Report to Accompany Petition to Appoint, Modify, or Discharge Guardian.
- PC630 Report of Physician.
- PC571 Acceptance of Appointment.
- MC 97 & 97a Protected Personal Identifying Information (if necessary)

ADULT CONSERVATORSHIPS

Adult conservatorships are needed when a formerly competent adult is unable to manage property and business affairs effectively for reasons such as Mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power, or disappearance. Additionally, the individual must have property that will be wasted or dissipated unless proper management is provided, or money is needed for the individual's support, care, and welfare or for those entitled to the individual's support, and that protection is necessary to obtain or provide money. To learn more about adult conservatorships, visit the State Bar of Michigan's or Michigan Legal Help's websites. (See Common to All Cases, Page 1).

FILING FEE AND OTHER COSTS:

The filing fee is \$175.00. The person that is subject of the petition may be billed for court appointed attorney fees and/or guardian ad litem fees. See "Common to All Cases, Page 1" for additional information on fees, waiving fees or setting up a payment plan.

GUARDIAN AD LITEM/ATTORNEY:

The court appoints a guardian ad litem to visit the individual and serve the individual copies of the court documents. The guardian ad litem will report any findings to the court and make a recommendation regarding the proposed conservatorship. The court may appoint an attorney under certain circumstances.

FORMS NEEDED TO START A CASE

- PC 667 What You Need to Know Before Filing a Petition to Appoint a conservator.
- PC 639 Petition for Appointment of Conservator.
- PC 562 Notice of hearing.
- PC 571 Acceptance of Appointment.
- PC 565 Proof of service: The petitioner is responsible for serving all interested parties and filing the proof of service with the court.
- PC 630 Report of Physician or Mental Health Professional.
- MC 97 & 97a Protected Personal Identifying Information (if necessary)