

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

712B.25 Involuntary guardianship; investigation; report; notice of pending proceeding; consent; withdrawal; termination of voluntary guardianship; potential applicability of Indian child welfare act.

Sec. 25. (1) If a petition for a guardianship is filed and is determined to be involuntary under section 15 of this chapter and the court knows or has reason to know that the child is an Indian child, the court may order the department or a court employee to conduct an investigation of the proposed guardianship and file a written report of the investigation. In addition to the information required in section 5204 of the estates and protected individuals code, 1998 PA 386, MCL 700.5204, the report must include, but is not limited to, the following information:

- (a) Whether the child is or is not an Indian child.
- (b) The identity and location of the Indian child's parents, if known.
- (c) If the child is an Indian child, the report must also address all of the following:
 - (i) The tribe or tribes of which the Indian child is a member or eligible for membership.
 - (ii) If the Indian child and family need culturally appropriate and other services to preserve the Indian family.
 - (iii) The identity and location of extended family members and if no extended family members can be found, what efforts were made to locate them.
- (2) Notice of the pending proceeding must be given as prescribed by Michigan supreme court rule, the Indian child welfare act, and section 9 of this chapter. If the court knows or has reason to know that the proceeding involves an Indian child, the court shall conduct a hearing to determine all of the following:
 - (a) If the tribe has exclusive jurisdiction. If so, the court shall issue an order terminating the guardianship or dismissing the petition.
 - (b) If the current placement with the guardian meets the placement requirements in section 23 of this chapter.
 - (c) If it is in the Indian child's best interest to order the guardianship.
 - (d) If a lawyer-guardian ad litem should be appointed to represent the Indian child.
- (3) If a petition for guardianship is filed and is to be accompanied by a consent to a voluntary placement of an Indian child, the consent must be executed in accordance with section 13 of this chapter. If the Indian child's parents do not execute a consent under section 13 of this chapter, the petition is considered to be for an involuntary guardianship and the requirements of section 15 of this chapter must be met.
- (4) A parent or Indian custodian who executes a consent under this section for the purpose of voluntary guardianship may withdraw his or her consent at any time by sending written notice to the court substantially in compliance on a form approved by the state court administrative office that the parent or Indian custodian revokes consent and wants his or her Indian child returned.
- (5) The voluntary guardianship is terminated when the court receives from a parent or Indian custodian notice to withdraw consent to the guardianship, and the Indian child shall be immediately returned to the parent or Indian custodian.
- (6) If the court discovers a child may be an Indian child after a guardianship is ordered, the court shall provide notice of the guardianship and the potential applicability of this chapter and the Indian child welfare act, in compliance with Michigan court rules, this chapter, and the Indian child welfare act, to the tribe, the parents or Indian custodian, and the current guardian on a form approved by the state court administrative office.

History: Add. 2012, Act 565, Imd. Eff. Jan. 2, 2013;—Am. 2016, Act 26, Eff. May 30, 2016.

Popular name: Probate Code