

GUARDIANSHIP LEGAL PROCESS

- ▶ You must complete several forms to petition (apply) for guardianship.
 - ▶ These forms include Petition for Appointment of Guardian (Form JN-1501; if the child is Native American, use Form IW-1501), Notice of Hearing (Form JD-1724; if the child is Native American, use Form IW-1724), Statement by Proposed Guardian (Form JN-1514), Uniform Child Custody Jurisdiction and Enforcement Affidavit (Form GF-150), Order Appointing Guardian ad Litem or Attorney (JD-1798A) and any county specific forms.
 - ▶ The petition should include information about you, the child, other interested people, the circumstances regarding the guardianship and the reasons for guardianship.
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- ▶ Once your guardianship forms are completed they should be filed with the county clerk's office in the county where the child resides, is physically present, or where you propose the child reside.
 - ▶ There may be fees or other county specific costs required to file your forms.
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- ▶ You must provide notice about your petition for guardianship to any interested people.
 - ▶ The notice should include when and where the initial hearing regarding the guardianship will take place and include a copy of the petition.
 - ▶ You must notify interested people including the child if age 12 or older, the child's parents, the child's guardian ad litem/counsel if any, current guardian, legal/physical custodians, any alleged fathers, anyone nominated as guardian and other people required by the court.
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- ▶ You will need to provide the Statement by Proposed Guardian (Form JN-1514) to the court at least 96 hours before your initial hearing.
 - ▶ This statement should include information about any other people you are responsible for, your finances, and any criminal and/or child protective services history.
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- ▶ At the initial hearing, interested people have the chance to contest (challenge) your guardianship petition.
 - ▶ The initial hearing will take place within 45 days after you file your petition (unless it is an emergency guardianship which will take place as soon as possible).
 - ▶ If no one contests, this hearing is combined with the fact-finding and dispositional hearing and may be heard on the initial court date.
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- ▶ This hearing will either be combined with the initial hearing or take place within 30 days after the initial hearing if anyone contests.
 - ▶ Fact-Finding
 - During the fact-finding process, you and anyone who contests will present evidence to the court. The evidence needed will depend on the type of guardianship, but includes proving why the guardianship is needed.
 - ▶ Dispositional
 - During the dispositional hearing, a number of factors will be considered such as any nominated guardians, wishes of the parent/child, whether the proposed guardian is fit, willing and able to care for the child, and whether the appointment of the proposed guardian is in the best interests of the child.
 - The court will make a final decision about your guardianship.

FORMS

FILING

NOTICE

STATEMENT

INITIAL HEARING

FACT-FINDING & DISPOSITIONAL HEARING

POST-PETITION HEARINGS

Post-petition hearings do not always occur with every guardianship case. Hearings for successor guardianship, modification, review of guardian conduct and/or termination may take place after the initial court ordered guardianship is established.

These hearings occur only if another interested person files a petition for any of the following reasons.

TERMINATION

- ▶ A parent or child (age 12 or over) can petition for termination of the guardianship.
- ▶ The petition must allege facts showing a substantial change in circumstances regarding the guardianship, that the parent is fit, willing and able to care for the child or that no other compelling reasons exist, and that termination is in the child's best interest.
- ▶ A hearing will take place regarding the termination unless written waivers of objections are provided by all interested people.

MODIFICATION

- ▶ Any interested person may petition for the guardianship to be changed and the petition must include the proposed changes.
- ▶ Evidence must be provided to show a substantial change in circumstances regarding the guardianship and why the modification would be in the child's best interest.
- ▶ A hearing will take place regarding the modifications unless written waivers of objections are provided by all interested people.

REVIEW OF GUARDIAN CONDUCT

- ▶ A review of the guardian's conduct may occur if there are allegations of abuse, failure to disclose certain information in the statement before the initial hearing, failure to follow the court order or failure to perform duties as the child's guardian.
- ▶ Any interested person can petition for a review of guardian conduct. A hearing takes place 30 days after filing this petition.
- ▶ If any allegations are proven, the court may remove the guardian, enter a different order, compel the guardian to carry out duties, including an order setting reasonable rules of visitation with the child or change the legal authority and duties of the guardian.

SUCCESSOR GUARDIANSHIP

- ▶ A successor guardian may be appointed as a back-up in the event that the initial guardian can no longer care for the child.
- ▶ A successor guardianship petition is heard in the same manner and subject to the same requirements as the initial guardianship petition.
- ▶ A successor guardian can be appointed for full, limited or temporary guardianship and has the same rights as duties as the initial guardian. See part 1 of *Resources for Guardianship of a Minor in Wisconsin* for more information on full, limited and temporary guardianship.



Learn more at

www.kidsmatterinc.org

