

CCIP: Legislative Update,  
Forms/Codes Updates, &  
Minor Guardianship

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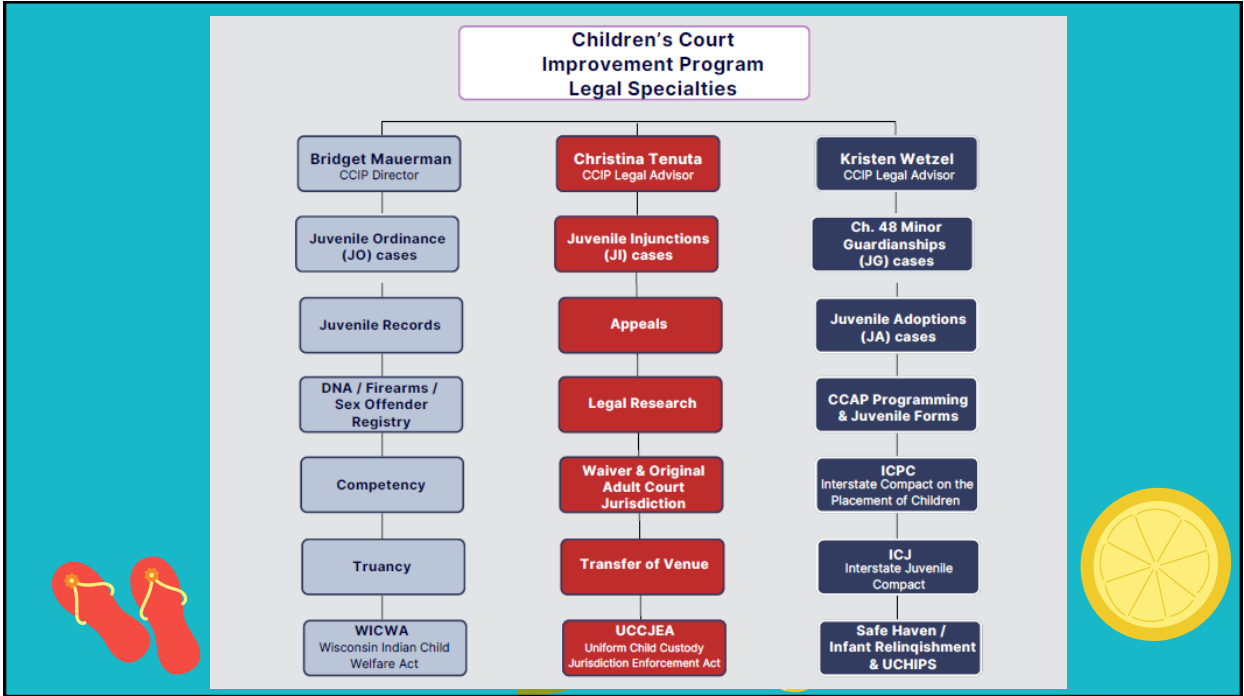
This slide features a vibrant blue background with various summer-themed illustrations. In the top left, there is a pineapple and a yellow swan. In the top right, a smaller pineapple, a bright yellow sun with rays, and a pair of white flip-flops with red stripes are shown. The bottom left corner depicts two palm trees on a small yellow island next to a beach ball. The bottom right corner shows a slice of watermelon and another pair of red and white striped flip-flops.

## CCIP Staff

- Bridget Mauerman - Director
- Kristen Wetzel – Legal Advisor
- Christina Tenuta – Legal Advisor
- Elizabeth (Lizzy) Brandenburg – Program Associate

[www.wiccuptraining.com](http://www.wiccuptraining.com)

This slide has a blue background and features a list of staff members. At the bottom, there is a row of six summer-themed illustrations: a pair of red flip-flops, a beach ball, a slice of watermelon, a pineapple, another pair of red and white striped flip-flops, and a slice of a lemon.



# CCIP Page on CourtNet

CCIP Home / CCIP



Juvenile Information



Juvenile Clerks Meet Ups



CCIP e-Learning website



CCIP Staff

<https://courtnet.wicourts.gov/education/ccip/index.htm>

## Juvenile Clerk CCAP Email Group

- CCIP communicates with Juvenile Clerks regarding forms release summaries, CCAP programming releases, and Juvenile Clerks Meet Ups via the Juvenile Clerk CCAP email group.
- If you are not already included in the Juvenile Court Clerks group e-mail group, please contact your supervisor.
  - A supervisor will need to submit the User Information Change (CS-217) form to CCAP.

\*This is different than the Juvenile Court Clerks Listserve.



## CCAP requests that have been submitted

1

Deactivate Party Types

4

Allow JD-1714 – Capias to be CCAP generated in JI cases

2

Allow non-party social workers to eFile Petition for Adoption / add JC-1645 as eFiling initiating document

5

Activate Adjudicated Father as a party option on JD-1762 to allow adjudicated father to be a dropdown option when completing form

3

Update eFiling document form titles





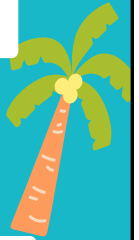
## Code requests that have been submitted

**Activate Disposition Codes for JG 48.9795 Grandparent Visitation Cases**  
PDE - Petition Denied & PG - Petition Granted

**Activate Scheduling Code GALT - GAL Trust for JA**  
Utilized when the county appoints GALs for JA cases

**Create Activity Code ATFDD - Age 25 File Destruction Date (NC)**  
There is not an activity code for minor GN & JG guardianships


**Activate exhibit codes in JA cases**  
EL – Exhibit List and EX - Exhibit



## Outstanding CCAP Generated Forms

- **November 2023 RMC**
  - Order for Change in Placement (In-home to In-Home) – JD-1793
  - Order for Change in Placement (Out-of-home to In-home) – JD-1792
  - Consent Decree (out-of-home) ICWA – IW-1785B
- **May 2024 RMC**
  - Capias Juvenile – JD-1714
  - Notice to School Board – JD-1725
  - Dispositional Order – Delinquent – JD-1745 & JD-1745T
  - Order for Extension of Dispositional Order / Consent Decree – JD-1787
- **September 2024 RMC**
  - Order for Temporary Physical Custody - JD-1711 & IW-1711
  - Permanency Hearing Orders – JD-1791, JD-1791T, IW-1791 & IW-1791T
- **December 2024 RMC**
  - Order for Revision of Dispositional Order – JD-1786 & JD-1786T





# Request for Amendment of the TPC Order

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE INTEREST OF \_\_\_\_\_

**Request for Amendment  
of the Temporary Physical  
Custody Order**

Name \_\_\_\_\_ Case No. \_\_\_\_\_

Date of Birth \_\_\_\_\_

**I REQUEST THE COURT AMEND THE TEMPORARY PHYSICAL CUSTODY ORDER.**

1. I am interested as  Caseworker  District Attorney/Corporation Counsel  
 Other \_\_\_\_\_

2. The Court issued a Temporary Physical Custody Order on [Date] \_\_\_\_\_

3. I am requesting to amend the placement of the child from in-home to an out-of-home placement.  
*If requesting any other type of change in placement for a child/juvenile under a Temporary Physical Custody Order, use JD-1754, WI-1754, JD-1766, or WI-1766.*

A. I am requesting an out-of-home placement because: \_\_\_\_\_  See attached

B. The proposed out-of-home placement is [Name and Address] \_\_\_\_\_

C. Placement in the home is contrary to the welfare of the child/expectant mother, due to: \_\_\_\_\_  See attached

D. Efforts made to prevent removal and return the child safely to the home include: \_\_\_\_\_  See attached

E. The placement is certified as a Qualified Residential Treatment Program. The standardized assessment and recommendation by a qualified individual  are attached  will be submitted by: \_\_\_\_\_ (No later than 30 days from date of placement)

4. I am requesting to amend the conditions under the Temporary Physical Custody Order for [Name] \_\_\_\_\_.

A. I am requesting to amend the conditions because: \_\_\_\_\_  See attached



B. The proposed new condition(s) is/are \_\_\_\_\_  See attached

5. I request the court schedule a hearing by [Date] \_\_\_\_\_

6. A party's address has changed.  
A Notice of Change of Address (JD-1830) has been or will be filed separately.

7. Other \_\_\_\_\_

- JD-1726 should be used to amend the placement of a child from in-home to out-of-home under a TPC Order.
- This form and corresponding order, JD-1727, were created due to resolve Title IV-E funding issues.

## Like-Kin - 23 WI Act 119

- Allows a child/juvenile to be placed with a person who is like-kin in a Ch. 48 or Ch. 938 proceeding.
  - At all stages in the case (temporary physical custody, disposition, change in placement)
- Provides kinship care payments to like-kin
  - Effective January 1, 2025
- A person who has a significant emotional relationship with a child or the child's family that is similar to a familial relationship and who is not and has not previously been the child's licensed foster parent.
- For an Indian child, "like-kin" includes individuals identified by the child's tribe according to tribal tradition, custom or resolution, code, or law.



## Chapter 48 Minor Guardianships

### **§ 48.977 CHIPS Guardianships**

Subsidized Guardianship Payments

### **§ 48.9795 Minor Guardianships of the Person**

Kristen Wetzel - Legal Advisor, CCIP

Please note this information is not meant to be construed as legal advice.

Any guidance provided should not override a judge's decision and authority.

Please do not share any confidential case specific information.

Thank you!

## Types of Minor Guardianships

### JG Case Types

- § 48.831 – Guardianship for a Child Without a Living Parent
- § 48.977 – CHIPS Guardianship
- § 48.9795 – Minor Guardianship of the Person
  - \*This also applies to any modification from previous Chapter 54 minor guardianship of the person cases.

### GN Case Type

- Chapter 54 - Minor Guardianship of the Estate

## Court Forms

View [all guardianship forms](#)

### Guardianships (Chapter 48) - Minor Guardianships of the Person

- > [48.831 - Guardian for a Child Without a Living Parent for Adoptability Finding](#)
- > [48.977 - Guardian for Certain Children in Need of Protection or Services](#)
- > [48.9795 - Guardian of the Person for a Child](#)

### Guardianships (Chapter 48) - Minor Guardianships of the Person - Indian Child Welfare Act (ICWA)

- > [48.831 - Guardian for a Child Without a Living Parent for Adoptability Finding \(ICWA\)](#)
- > [48.977 - Guardian for Certain Children in Need of Protection or Services \(ICWA\)](#)
- > [48.9795 - Guardian of the Person for a Child \(ICWA\)](#)

There are separate forms for each type of minor guardianship because the findings are different.

### JG Form numbers

- § 48.831 – Guardianship for a Child Without a Living Parent
- § 48.977 – CHIPS Guardianship

### JN Form numbers

- § 48.9795 – Minor Guardianship of the Person

# 48.977

## CHIPS Guardianships



### Who can file a §48.977 CHIPS guardianship petition? JG-1605 / IW-1605

- Child
- Parent
- Guardian
- Legal custodian or Indian custodian
- Guardian ad litem
- Proposed guardian
- Department of Children and Families
- Agency
- District Attorney/Corporation Counsel



## §48.977 CHIPS Guardianship Requirements

- Child adjudicated CHIPS (or JIPS ground of uncontrollable behavior).
- Child will live with proposed guardian.
- Guardian willing and able to serve for an extended time or until child is 18.
- TPR not in child’s best interests.
- Parent is neglecting, refusing, or unable to fulfill the duties as guardian.
- Agency has made reasonable efforts to prevent removal/return the child home.

|  |  |
|--|--|
| STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY<br>IN THE INTEREST OF _____ <input type="checkbox"/> Amended<br>a person under the age of 18<br>Date of Birth: _____<br>Case No. _____ | <b>Petition for Appointment<br/>of Guardian<br/>(§48.977, Wis. Stats.)</b> |
|--|--|

**I STATE ON INFORMATION AND BELIEF:**

1. Child's Address \_\_\_\_\_  
 Child has previously been adopted?  Yes  No  
 Parent 1's Name and Address \_\_\_\_\_  Parent 1 is deceased  
 Parent 2's Name and Address \_\_\_\_\_  Parent 2 is deceased  
 Guardian's Name and Address \_\_\_\_\_  
 Legal Custodian's Name and Address \_\_\_\_\_  
 Is an interpreter needed?  No  Yes Language(s) \_\_\_\_\_ Party Name(s) \_\_\_\_\_

2. The appointment of a guardian is being requested for a child in need of protection or services. As the petitioner, I am interested as: \_\_\_\_\_

3. The person or agency nominated as the guardian of the child is \_\_\_\_\_  
 Date of Birth: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Phone: \_\_\_\_\_

4. The child  is not  may be subject to the federal Indian Child Welfare Act.  
 Tribe/address: \_\_\_\_\_  
**For an Indian child, use the Indian Child Welfare Act version of this petition (IW-1605).**

5. The facts and circumstances which establish that the conditions specified under §48.977(2)(b)-(f), Wis. Stats., met are: \_\_\_\_\_  See attached

6. The child was adjudicated in need of protection or services under § \_\_\_\_\_ Wis. Stats., on [Date] \_\_\_\_\_ and has been placed, or continued in a placement, outside of his or her home pursuant to one or more court orders under § \_\_\_\_\_ Wis. Stats.  
 A. The person representing the interests of the public under §48.09, Wis. Stats., is \_\_\_\_\_  
 B. The agency primarily responsible for providing services to the child under a court order is \_\_\_\_\_

## JG-1605 / IW-1605

7. The department or county department has determined that the proposed guardian is eligible to receive monthly subsidized guardianship payments under §48.623(1), Wis. Stats., and it is requested that the court confirm those determinations. **Attach department eligibility statement.** The person nominated as the successor guardian (if any) of the child is:  
 Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 Phone \_\_\_\_\_

8. The Uniform Child Custody Jurisdiction and Enforcement Act Declaration (GF-150) is attached to this Petition.

I shall provide notice of the hearing and a copy of this petition to the child (if 12 year of age or older), the child's parents, child's guardian, legal custodian, guardian ad Litem / adversary counsel, person representing the interests of the public, caseworker, placement, and any person nominated as a successor guardian at least 7 days before the date of the hearing. Service shall be made by first class mail or by personal service.

I request that (Name) \_\_\_\_\_ be appointed guardian of the child.

Petitioner's Signature \_\_\_\_\_

Name Printed or Typed \_\_\_\_\_

Address \_\_\_\_\_

Email Address \_\_\_\_\_ Telephone Number \_\_\_\_\_

Date \_\_\_\_\_ State Bar No. (if any) \_\_\_\_\_

**DISTRIBUTION:**  
 1. Court  
 2. Child – if 12 years or older  
 3. Child's Guardian ad Litem/Adversary Counsel  
 4. Parents  
 5. Parents' Attorney(s)  
 6. Child's Guardian/Legal Custodian  
 7. District Attorney/Corporation Counsel  
 8. Caseworker  
 9. Proposed Guardian  
 10. Proposed Successor Guardian

## §48.977 CHIPS Guardianship Subsidy

- The county agency will determine if the proposed guardians qualify for a guardianship subsidy prior to filing the §48.977 CHIPS guardianship petition.
  - If proposed guardians qualify, the department eligibility paperwork will be attached to the petition.
- The Dispositional Order includes a court finding regarding - “the determinations made under §48.623 (1), Wis. Stats., that the guardian is eligible to receive monthly subsidized guardianship payments, are confirmed.”
  - If a subsidized guardianship is granted, the CHIPS case must be terminated. §48.977 (3r)(a).

## §48.977 CHIPS Guardianship

A separate JG filing is required.

The JG petition should not be filed in the JC CHIPS case.

Any guardianship documents should only include the JG case number and not the JC case number.

## §48.977 CHIPS Guardianship - Notice

The petitioner shall provide notice of the hearing and a copy of the petition to:

- the child (if 12 year of age or older),
- the child's parents, child's guardian, legal custodian,
- guardian ad litem / adversary counsel,
- person representing the interests of the public,
- caseworker,
- placement, and
- any person nominated as a successor guardian

Service shall be made by first class mail or by personal service.

\*Listed on the bottom of the Guardianship petition.

## §48.977 CHIPS Guardianship - ICWA

ICWA is incorporated into §48.977 CHIPS guardianships.

There are ICWA §48.977 CHIPS guardianship Circuit Court forms that include ICWA notice requirements and additional findings that must be made at the Dispositional Hearing.

## §48.977 CHIPS Guardianship - ICWA - Notice

The petitioner shall provide notice of the hearing and a copy of the petition to:

- the child's parents,
- tribe, and
- Indian Custodian

by registered mail return receipt request. \*eFile the return receipt

If the identity or location of the Indian child's parent, Indian custodian, or tribe cannot be determined, notice shall be provided to the U.S. Secretary of the Interior.

Proof of registered mail is required.

## §48.977 CHIPS Guardianship Hearings

### Initial / Plea Hearing

- Must be held no more than 30 days after filing the petition
- Petitioner must provide notice at least 7 days before the hearing
- ICWA cases – notice is at least received 10 days before the hearing for some parties and 15 days before the hearing if sending to U.S. Secretary of Interior

## **§48.977 CHIPS Guardianship - Guardian ad Litem**

§48.235(1)(c) - The court shall appoint a guardian ad litem for any child who is the subject of a proceeding to terminate parental rights, whether voluntary or involuntary, for a child who is the subject of a contested adoption proceeding, and for a child who is the subject of a proceeding under s. 48.977, 48.978, or 48.9795.

- This applies regardless of whether the juvenile had adversary counsel in the underlying CHIPS case.

## **§48.977 CHIPS Guardianship - Adversary Counsel**

§48.23 (3) - At any time, upon request or on its own motion, the court may appoint counsel for the child or any party, unless the child or the party has or wishes to retain counsel of his or her own choosing.

## Does the Proposed Guardian in a §48.977 guardianship have to complete a Statement by the Proposed Guardian?

The statute does not require it so that is why we do not have a §48.977 Statement by the Proposed Guardian Circuit Court form.

A judge may be interested in additional information about the proposed guardian. Some judges have instructed parties to use the §48.9795 form or counties have created their own form.

We defer to the judge since the statute is silent!

## §48.977 Court Report

DEPARTMENT OF CHILDREN AND FAMILIES  
Division of Safety and Permanence

ddf.edocs@dnf.wisconsin.gov

**Court Report for Transfer of Legal Guardianship**

**Use of form:** Completion of this form is required pursuant to Wis. Stat. s. 48.977(4)(e). The agency shall use this form to provide information relating to the appointment of a guardian for a child who has been placed or continued in a placement outside of their home for 6 months or longer. Personal information you provide may be used for secondary purposes (Privacy Law, s. 19.4617(m), Wisconsin Statutes).

|   |   |                  |                                     |
|---|---|------------------|-------------------------------------|
| <b>Court Information</b>  |   | Hearing Date     | If applicable: eWSACWIS Case Number |
| Judge's Name  |   |                  |                                     |
| Court Number  | Agency                                  |                  | Court Case Type                     |
| <b>Child Information</b>  |   |                  |                                     |
| Full Name (Initials are acceptable if preferred by court)   |   | Birthdate        | Age                                 |
| Parent 1 <input type="checkbox"/> Unknown <input type="checkbox"/> Deceased   |   |                  |                                     |
| Full Name   |   | Birthdate        |                                     |
| Address (Street, City, State, Zip Code)   |   | Telephone Number |                                     |
| Parent 2 <input type="checkbox"/> Unknown <input type="checkbox"/> Deceased   |   |                  |                                     |
| Full Name   |   | Birthdate        |                                     |
| Address (Street, City, State, Zip Code)   |   | Telephone Number |                                     |
| <b>Legal Guardian(s)</b>  |   |                  |                                     |
| Full Name   | Address (Street, City, State, Zip Code) | Telephone Number |                                     |
|   |   |                  |                                     |
| <b>Legal Custodian(s)</b>   |   |                  |                                     |
| Full Name   | Address (Street, City, State, Zip Code) | Telephone Number |                                     |
|   |   |                  |                                     |
| <b>Proposed Guardian(s)</b>   |   |                  |                                     |
| Guardian 1 Full Name  | Telephone Number                        |                  |                                     |
| Guardian 2 Full Name  | Telephone Number                        |                  |                                     |
| Address (Street, City, State, Zip Code)   |   |                  |                                     |
| <b>ICWA Information (This section is not required to be completed for an Indian child who is under the jurisdiction of a tribal court.)</b> |   |                  |                                     |
| Is the child an American Indian?  |   |                  |                                     |
| <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown   |   |                  |                                     |
| If "Yes", provide the name of the American Indian Tribe or Band   |   |                  |                                     |

DDF-CP02138 (R. 11/2022)

The §48.977 Guardianship Dispositional Court Report must be filed at least 48 hours before the dispositional hearing. §48.977 (4)(e)

\*This document should be marked as confidential in CCAP.

## §48.977 CHIPS Guardianship Hearings

### Fact-Finding Hearing

- No more than 30 days after the Plea Hearing

### Dispositional Hearing

- No more than 30 days after the Plea or Fact-Finding Hearing

Hearings can be adjourned for good cause under §48.315.

## §48.977 Guardian's Powers

A guardian can be appointed with full or limited powers:

full powers enumerated under §48.023, Wis. Stats:

The duty and authority to make important decisions in matters having a permanent effect on the life and development of the child and the duty to be concerned about the child's general welfare, including but not limited to:

- The authority to consent to marriage, enlistment in the U.S. armed forces, major medical, psychiatric and surgical treatment, and obtaining a motor vehicle operator's license.
- The authority to represent the child in legal actions and make other decisions of substantial legal significance concerning the child but not the authority to deny the child the assistance of counsel as required by Chapter 48.
- The right and duty of reasonable visitation of the child.
- The rights and responsibilities of legal custody except when legal custody has been vested in another person or when the child is under the supervision of the department of corrections under §§938.183, 938.34 (4h), (4m), or (4n), or §938.357 (3) or (4), Wis. Stats., or the supervision of a county department under §938.34 (4d), (4m), or (4n), Wis. Stats.

powers limited to: \_\_\_\_\_

## §48.977 Revision - JG-1628

|   |                             |
|---|-----------------------------|
| STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY   |                             |
| IN THE INTEREST OF _____ <input type="checkbox"/> Amended   |                             |
| Request to  |                             |
| <input type="checkbox"/> Terminate Guardianship   |                             |
| <input type="checkbox"/> Revise Guardianship Order  |                             |
| <input type="checkbox"/> Remove Guardian for Cause<br>(§48.977, Wis. Stats.)  |                             |
| Name _____  | Case No. _____              |
| Date of birth _____   |                             |
| I STATE ON INFORMATION AND BELIEF:  |                             |
| 1. Child's Address _____<br>County where child currently resides _____  |                             |
| Parent 1's Name and Address _____<br><input type="checkbox"/> Parent 1 is deceased.   |                             |
| Parent 2's Name and Address _____<br><input type="checkbox"/> Parent 2 is deceased.   |                             |
| Guardian's Name and Address _____   |                             |
| Legal Custodian's Name and Address _____  |                             |
| Guardian ad Litem's Name and Address (if any) _____   |                             |
| Person representing the public under §48.09, Wis. Stats. (Name and Address) _____   |                             |
| Agency primary responsible for providing services to the child under a court order (Name and Address) _____                             | <input type="checkbox"/> 5. |
| 2. As the petitioner, I am interested as _____  |                             |
| 3. The child <input type="checkbox"/> is not <input type="checkbox"/> may be <input type="checkbox"/> is _____<br>Tribal address: _____ |                             |

- A revision can be used to name a co-guardian or name a successor but not appoint a successor guardian.

I request to **Revise** the guardianship order.

There has been a substantial change in circumstances since the last order affecting the guardianship that was entered. The facts and circumstances which support this request are: \_\_\_\_\_

See attached

I propose the following revision: \_\_\_\_\_

See attached

The proposed revision would be in the best interests of the child because: \_\_\_\_\_

See attached

Any other information that affects the advisability of the court's disposition: \_\_\_\_\_

See attached

I request:

A. the Court revise the guardianship based upon all required written waivers of objection, having been signed and filed with the court.

B. a hearing be scheduled on this Request to Revise the Guardianship Order.

## §48.977 Guardian's Powers

- §48.977 does not authorize the court to order periods of visitation under the statute unlike §48.9795 guardianships.
  - Visitation is at the discretion of the guardian under their duties and authorities.
- §48.977 also does not allow for standby guardians.



## Why is the successor guardian information under the subsidized section of the §48.977 Petition and Dispositional Order?

Subsidized §48.977 guardianships may name a successor guardian.

The §48.977 statute doesn't address successor guardians for unsubsidized guardianships.

## §48.977 – Successor Guardian

| STATE OF WISCONSIN, CIRCUIT COURT,  | COUNTY   |
|---|--|
| IN THE INTEREST OF  | <input type="checkbox"/> Amended   |
| Name _____  | <b>Petition for Appointment of Successor Guardian (§48.977, Wis. Stats.)</b> |
| Date of Birth _____   | Case No. _____   |
| <b>I STATE:</b>   |  |
| 1. I am interested as _____   |  |
| 2. I request the court appoint (Name) _____ as the successor guardian of the child.   |  |
| 3. The child's guardian <input type="checkbox"/> died, <input type="checkbox"/> is incapacitated.   |  |
| 4. A successor guardian <input type="checkbox"/> was <input type="checkbox"/> was not previously ordered on the Dispositional Order Appointing Guardian.  |  |
| 5. A prospective successor guardian was named in a subsidized guardianship agreement or amended subsidized guardianship agreement that was entered into before the death or incapacity of the guardian as successor guardian to assume the duty and authority of guardian.  |  |
| <ul style="list-style-type: none"> <li>• The subsidized guardianship agreement or amended subsidized guardianship agreement is attached to this petition.</li> </ul>  |  |
| 6. The following conditions have been met:  |  |
| <ul style="list-style-type: none"> <li>• The child, if 14 years of age or over, has been consulted with regarding the successor guardianship arrangement.</li> <li>• The person named as successor guardian has a strong commitment to caring permanently for the child.</li> <li>• The named successor guardian was interviewed, the home was inspected, and determined that placement of the child with the successor guardian is in the best interests of the child.               <ul style="list-style-type: none"> <li>◦ In the case of an Indian child, the best interests of the Indian child were determined in accordance with §48.01 (2).</li> </ul> </li> <li>• The named successor guardian has entered into a subsidized guardianship agreement.</li> <li>• A background investigation has been conducted of the person and the home of the named successor guardian and any nonresident resident and meets the requirements in §48.685.</li> <li>• Any order placing the child or continuing the placement of the child outside of the child's home has been terminated or any proceeding in which the child has been adjudged CHIPS has been dismissed.</li> <li>• If the county has reason to know that the child is an Indian child, notice of the Indian child's placement in the successor guardian's home has been provided to the Indian child's parent, Indian custodian, and tribe. The home of the successor guardian complies with the order of placement preference unless there is good cause to depart from that order.</li> </ul> |  |
| 7. I request the court find that the successor guardian was named in a subsidized guardianship agreement or amended subsidized guardianship agreement and that the conditions in §48.623 (6)(b) have been met.  |  |
| 8. I request the court schedule a hearing on this matter.   |  |
| <input type="checkbox"/> Additional requests: _____   |  |

- JG-1645 - Petition
- There are very limited circumstances available in §48.977 to appoint a successor guardian.
  - The guardian died.
  - The guardian is incapacitated.

## §48.977 – Successor Guardian

Amended

**Order for Appointment  
of Successor Guardian  
(§48.977, Wis. Stats.)**

IN THE INTEREST OF \_\_\_\_\_  
Name \_\_\_\_\_  
Date of Birth \_\_\_\_\_ Case No. \_\_\_\_\_

A Petition for Appointment of Successor Guardian (§48.977, Wis. Stats.) was filed.

**THE COURT FINDS:**

- The current guardian (Name) \_\_\_\_\_ is no longer able to serve as guardian of the child due to  death  incapacitation.
- The successor guardian was named in a subsidized guardianship agreement or amended subsidized guardianship agreement that was entered into before the death or incapacity of the guardian as successor guardian to assume the duty and authority of guardian.
- The following conditions have been met:
  - The child, if 14 years of age or over, has been consulted with regarding the successor guardianship arrangement.
  - The person named as successor guardian has a strong commitment to caring permanently for the child.
  - The named successor guardian was interviewed, the home was inspected, and determined that placement of the child with the successor guardian is in the best interests of the child.
    - In the case of an Indian child, the best interests of the Indian child were determined in accordance with §48.01 (2).
  - The named successor guardian has entered into a subsidized guardianship agreement.
  - A background investigation has been conducted of the person and the home of the named successor guardian and any nonclient resident and meets the requirements in §48.885.
  - Any order placing the child or continuing the placement of the child outside of the child's home has been terminated or any proceeding in which the child has been adjudged CHIPS has been dismissed.
  - If the county has reason to know that the child is an Indian child, notice of the Indian child's placement in the successor guardian's home has been provided to the Indian child's parent, Indian custodian, and tribe. The home of the successor guardian complies with the order of placement preference unless there is good cause to depart from that order.

**THE COURT ORDERS:**

- The Court appoints (Name) \_\_\_\_\_ as successor guardian of the child with  full powers enumerated under §48.023, Wis. Stats.  
The duty and authority to make important decisions in matters having a permanent effect on the life and development of the child and the duty to be concerned about the child's general welfare, including but not limited to:

**THE COURT ORDERS:**

- The Court appoints (Name) \_\_\_\_\_ as successor guardian of the child with  full powers enumerated under §48.023, Wis. Stats.  
The duty and authority to make important decisions in matters having a permanent effect on the life and development of the child and the duty to be concerned about the child's general welfare, including but not limited to:

§48.1123 Order for Appointment of Successor Guardian (§48.977, Wis. Stats.) §48.977 (Sm), 48.823 (Sbm) Wisconsin Statutes  
This form shall not be modified. It may be supplemented with additional material. Page 1 of 2

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- The authority to consent to marriage, enlistment in the U.S. armed forces, major medical, psychiatric and surgical treatment, and obtaining a motor vehicle operator's license.
  - The authority to represent the child in legal actions and make other decisions of substantial legal significance concerning the child but not the authority to deny the child the assistance of counsel as required by Chapter 48.
  - The right and duty of reasonable visitation of the child.
  - The rights and responsibilities of legal custody except when legal custody has been vested in another person or when the child is under the supervision of the department of corrections under §§938.183, 938.34 (4n), (4m), or (4n), or §§938.357 (3) or (4), Wis. Stats., or the supervision of a county department under §§938.34 (4d), (4m), or (4n), Wis. Stats. powers limited to: \_\_\_\_\_
- The successor guardian shall receive a copy of the initial guardianship order and any court order revising that initial order.
- Other: \_\_\_\_\_

**THIS IS A FINAL ORDER FOR THE PURPOSE OF APPEAL.**

**DISTRIBUTION:**

- Court
- Child – if 12 years or older
- Child's Guardian ad Litem/Adversary Counsel
- Parents
- Parents' Attorney(s)
- Child's Successor Guardian
- Child's Legal Custodian
- District Attorney/Corporation Counsel
- Caseworker
- Tribe (if any)
- Indian Custodian (if any)

## §48.977 – Transferring Subsidized Payments

- If a successor guardian is going to be appointed by the court for a §48.977 subsidized guardianship, make sure the successor guardian contacts the county agency first.
- The successor needs to complete subsidized guardianship paperwork first before the court orders the successor guardian in order to transfer the subsidized payments.
- There are very limited circumstances to transfer the subsidized payments to a successor guardian.

## **Can a successor guardian be named or ordered in a §48.977 unsubsidized guardianship?**

The statute doesn't provide a procedure to name or order a successor guardian for an unsubsidized §48.977 guardianship.

We defer to the judge since there isn't a clear procedure to do this.

It is unclear if the court would be able to make all of the required findings on the Dispositional Order to appoint a successor guardian in an unsubsidized §48.977 guardianship such as the agency providing services and reasonable efforts.

## **Can you use the §48.9795 successor guardian procedure and form to appoint a §48.977 successor guardian?**

No, you can't jump between the two statutes - §48.977 and §48.9795.

There is not a procedure to transfer a §48.977 CHIPS Guardianship to a §48.9795 guardianship.

The §48.977 guardianship could be terminated and a new §48.9795 guardianship could be ordered. The court could schedule both hearings at the same time.

# \$48.977 – Resignation JG-1650

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE INTEREST OF  Amended  
**Resignation of Guardian**  
 (\$48.977, Wis. Stats.)

Name \_\_\_\_\_  
 Date of Birth \_\_\_\_\_ Case No. \_\_\_\_\_

I am the guardian of the above-named child.  
 I resign for the following reason(s):  
 \_\_\_\_\_  
 \_\_\_\_\_

I request that the court accept my resignation.  
 I understand that I will not be discharged by the court as guardian until the court finds that I have:

- completed all required duties;
- filed any required documents;
- a successor guardian is appointed, if applicable, and
- the court issues an Order of Discharge.

DISTRIBUTION:  
 1. Court \_\_\_\_\_ Guardian \_\_\_\_\_  
 2. Child – if 12 years or older \_\_\_\_\_  
 3. Child's Guardian ad Litem/Advisory Counsel \_\_\_\_\_ Name Printed or Typed \_\_\_\_\_  
 4. Parents \_\_\_\_\_  
 5. Parents' Attorney(s) \_\_\_\_\_ Address \_\_\_\_\_  
 6. Child's Guardian/Legal Custodian \_\_\_\_\_  
 7. Child's Successor Guardian \_\_\_\_\_ Email Address \_\_\_\_\_  
 8. District Attorney/Corporation Counsel \_\_\_\_\_ Telephone Number \_\_\_\_\_  
 9. Caseworker \_\_\_\_\_ Date \_\_\_\_\_  
 10. Tribe \_\_\_\_\_  
 11. Indian Custodian \_\_\_\_\_

**\*The resignation must be accepted by the court.**

# \$48.977 – Discharge Guardian - JG-1651

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE INTEREST OF  Amended  
**Order on Petition to Discharge Guardian**  
 (\$48.977, Wis. Stats.)

Name \_\_\_\_\_  
 Date of Birth \_\_\_\_\_ Case No. \_\_\_\_\_

**THE COURT FINDS:**  
 A Resignation of Guardian was filed on [Date] \_\_\_\_\_.

**THE COURT ORDERS:**

1. (Name) \_\_\_\_\_ is discharged as guardian of the child.
2. The successor guardian (Name) \_\_\_\_\_ is appointed as guardian of the child.
3. Other: \_\_\_\_\_

**THIS IS A FINAL ORDER FOR THE PURPOSE OF APPEAL.**

DISTRIBUTION:  
 1. Court \_\_\_\_\_  
 2. Child – if 12 years or older \_\_\_\_\_  
 3. Child's Guardian ad Litem/Advisory Counsel \_\_\_\_\_  
 4. Parents \_\_\_\_\_  
 5. Parents' Attorney(s) \_\_\_\_\_  
 6. Child's Guardian/Legal Custodian \_\_\_\_\_  
 7. Child's Successor Guardian \_\_\_\_\_  
 8. District Attorney/Corporation Counsel \_\_\_\_\_  
 9. Caseworker \_\_\_\_\_  
 10. Tribe \_\_\_\_\_  
 11. Indian Custodian \_\_\_\_\_

# \$48.977 – Remove Guardian for Cause JG-1628

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE INTEREST OF  Amended  
**Request to**  
 Terminate Guardianship  
 Revise Guardianship Order  
 Remove Guardian for Cause  
 (\$48.977, Wis. Stats.)

Name \_\_\_\_\_  
 Date of Birth \_\_\_\_\_ Case No. \_\_\_\_\_

**I STATE ON INFORMATION AND BELIEF:**

1. Child's Address \_\_\_\_\_ County where child currently resides \_\_\_\_\_

Parent 1's Name and Address \_\_\_\_\_  Parent 1 is deceased.

Parent 2's Name and Address \_\_\_\_\_  Parent 2 is deceased.

Guardian's Name and Address \_\_\_\_\_

Legal Custodian's Name and Address \_\_\_\_\_

Guardian ad Litem's Name and Address (if any) \_\_\_\_\_

Person representing the public under §48.09, Wis. Stats. (Name and Address) \_\_\_\_\_

Agency primary responsible for providing services to the child under a court order (Name and Address) \_\_\_\_\_

2. As the petitioner, I am interested as \_\_\_\_\_

3. The child  is not  may be  is subject to the federal Indian Child Welfare Act.  
 Tribe/address: \_\_\_\_\_

6. I request to **Remove Guardian for Cause**.  
 The guardian is or has been neglecting, refusing or unable to discharge the guardian's trust. The facts and circumstances which support this request are:  
 \_\_\_\_\_  
 \_\_\_\_\_  See attached

Any other information that affects the advisability of the court's disposition:  
 \_\_\_\_\_  See attached

I request (select all that apply):

- A. the Court remove guardian for cause based upon all required written waivers of objection, having been signed and filed with the court.
- B. a hearing be scheduled on this Request to Remove Guardian for Cause.
- C. the Court appoint the successor guardian (Name) \_\_\_\_\_ as guardian of the child.

## §48.977 – Petition to Terminate - JG-1628

A hearing is not required if:

- The term of the guardianship expired.
- The court removed the guardian for cause and a successor guardian was not appointed.
- There has been a termination of parental rights regarding the child and an order has been entered under §48.427 (3p).
- The guardian resigned, the resignation is accepted by the court, and a successor guardian is not appointed.

## §48.977 – Petition to Terminate - JG-1628

If a parent petitions to terminate the §48.977 guardianship,

- A hearing is required unless written waivers of objection are signed and filed with the court
- No specific timeframe
- The court must provide notice at least 7 days before the termination hearing

Parent can move to terminate the guardianship if:

- There is a substantial change in circumstances since last guardianship order,
- Parent is able to resume being guardian, and
- Best interest of child to terminate guardianship.

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE INTEREST OF \_\_\_\_\_  Amended

**Request to**

**Terminate Guardianship**

**Revise Guardianship Order**

**Remove Guardian for Cause**  
(§48.977, Wis. Stats.)

Name \_\_\_\_\_

Date of Birth \_\_\_\_\_

Case No. \_\_\_\_\_

---

**I STATE ON INFORMATION AND BELIEF:**

1. Child's Address \_\_\_\_\_ County where child currently resides \_\_\_\_\_

Parent 1's Name and Address \_\_\_\_\_  Parent 1 is deceased

Parent 2's Name and Address \_\_\_\_\_  Parent 2 is deceased

Guardian's Name and Address \_\_\_\_\_

Legal Custodian's Name and Address \_\_\_\_\_

Guardian ad Litem's Name and Address (if any) \_\_\_\_\_

Person representing the public under §48.05, Wis. Stats. (Name and Address) \_\_\_\_\_

Agency primary responsible for providing services to the child under a court order (Name and Address) \_\_\_\_\_

2. As the petitioner, I am interested as \_\_\_\_\_

3. The child  is not  may be  is subject to the federal Indian Child Welfare Act. Tribe/address: \_\_\_\_\_

4. I request to **Terminate** the guardianship.

A. The term of the guardianship order expired.

B. A request to remove guardian for cause is being requested below or was previously filed.

C. The court removed the guardian for cause and a successor guardian was not appointed.

D. There has been a termination of parental rights regarding this child and an order has been entered under §48.427 (3p), Wis. Stats.

E. The guardian resigned and the resignation is accepted by the court. A successor guardian is not appointed.

F. I am the child's parent.

1. There has been a substantial change in circumstances since the last order affecting the guardianship that was entered. The facts and circumstances which support this request are: \_\_\_\_\_  See attached

2. The parent is fit, willing, and able to carry out the duties of a guardian because: \_\_\_\_\_  See attached

3. The proposed termination of guardianship would be in the best interests of the child because: \_\_\_\_\_  See attached

4. I request: \_\_\_\_\_  See attached

## §48.977 – Terminate JG-1628

4. I request:

Terminate Guardianship/Revise Guardianship Order/Remove Guardian for Cause (§48.977, Wis. Stats.) §§48.977 (6), (7), Wisconsin Statutes

**This form shall not be modified. It may be supplemented with additional material.**

Page 1 of 2

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A. the Court terminate the guardianship based upon the written waivers of objection signed by all interested persons entitled to receive notice, which have been filed with the court.

B. a hearing be scheduled on this Request to Terminate the Guardianship Order.

## Can Court Commissioners hear §48.977 Guardianship cases?

A Court Commissioner cannot hear  
§48.977 guardianship proceedings.

§757.69 (1m)(e)

# \$48.977 CHIPS Guardianship Questions?



# 48.9795

## MINOR GUARDIANSHIPS OF THE PERSON



# 48.9795

## 4 TYPES OF GUARDIANSHIPS

Full

Limited

Temporary

Emergency

## Petitions for Appointment of Guardian

JN-1501 - Petition for Appointment of Guardian - Full/Limited/Temporary Guardianship

IW-1501 - Petition for Appointment of Guardian - Full/Limited/Temporary Guardianship -  
Indian Child Welfare Act

JN-1504 - Petition for Appointment of Emergency Guardian

Each petition requires a separate filing and own case number.

If two petitions are filed, they can be numbered either:

23 JG 1 & 23 JG 2 or

23 JG 1 & 23 JG 1A



## Lengths of each § 48.9795 Guardianship

| Full  | Limited  | Temporary  | Emergency  |
|---|--|--|--|
| Until the child's 18th birthday unless terminated earlier by a parent or a specific event | Requires an expiration date<br><br>Can be extended | Cannot exceed 180 days<br><br>A one-time extension is available up to an additional 180 days | Cannot exceed 60 days<br><br><b><u>and</u></b><br><br>Cannot be extended |

## §48.9795 Guardianship - Full

The Petitioner must prove facts and circumstances establishing that the child's parents are unfit, unwilling, or unable to provide for the care, custody, and control of the child or other compelling facts and circumstances demonstrating that a full guardianship is necessary.

- All of the duties and authority under § 48.023.
- Authority to determine reasonable visitation.
- Right to change the residence of the child from one state to another state.
- Duty to immediately notify the court of any change of address.

## §48.9795 Guardianship - Limited

The Petitioner must prove facts and circumstances establishing that the child's parents need assistance in providing for the care, custody, and control of the child and a statement of the specific duties and authority sought by the petitioner for the proposed guardian and the specific parental rights and duties that the petitioner seeks to have transferred.

Limits the duties and authority of a full guardianship.

### Examples include:

- Child moves out of state to live with a relative
- Parent is incarcerated for a few years
- Military service deployment
- Can be used for private TPRs until the adoption is finalized

## §48.9795 Guardianship - Temporary

The Petitioner must prove facts and circumstances establishing that the child's particular situation, including the inability of the child's parents to provide for the care, custody, and control of the child for a temporary period of time, requires the appointment of a temporary guardian; the reasons for the appointment of a temporary guardian; and the powers requested for the temporary guardian.

Guardian's authority shall be limited to those acts that are reasonably related to the reasons for the appointment that are specified in the petition for temporary guardianship.

### Examples include:

- a parent's health condition
- upcoming surgery and long recovery
- short incarceration sentence

## §48.9795 Guardianship - Emergency

The Petitioner must prove facts and circumstances establishing that the welfare of the child requires the immediate appointment of an emergency guardian.

Guardian's authority shall be limited to the acts, which are reasonably related to the reasons for the appointment of a guardian.

### Examples include:

- Medical consent when a parent is unavailable
  - may be requested by the county agency for child with an open CHIPS case
- Parent may remove child from a proposed guardian's care
- Something necessitating an immediate guardian for less than 60 days

## Scheduling the Initial Hearing

\*All 4 types require a hearing

### Emergency Guardianships



### Full, Limited, and Temporary Guardianships



## §48.9795 Guardianship - Emergency Temporary Order Appointing Guardian

- The Petitioner can request a Temporary Order Appointing an Emergency Guardian on the Emergency Guardianship petition.
- If the court issues this order (JN-1520), it remains in effect until the hearing on the emergency guardianship petition is held.

|   |   |
|---|---|
| STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY   |   |
| <input type="checkbox"/> Amended  |   |
| IN THE INTEREST OF _____  |   |
| Name _____  | <b>Temporary Order Appointing an<br/>Emergency Guardian<br/>(§48.9795, Wis. Stats.)</b> |
| Date of Birth _____   | Case No. _____  |
| <b>THE COURT FINDS:</b>   |   |
| 1. A Petition for an Emergency Guardianship has been filed in this case by (Name) _____ on (Date) _____.  |   |
| 2. A hearing on the Petition is scheduled for (Date) _____.   |   |
| 3. The Petition for Emergency Guardianship requests a temporary order appointing an emergency guardian without a hearing until a hearing on the emergency guardianship petition is held.  |   |
| 4. Good cause <input type="checkbox"/> has <input type="checkbox"/> has <u>not</u> been shown that a temporary order appointing an emergency guardian is required until a hearing is held on the emergency guardianship petition. |   |
| 5. This order does not change the placement of a child under the supervision of a court pursuant to §§48.13, 48.133, or §48.14 (1) to (10) or (12), Wis. Stats., or ch. 938.  |   |
| <b>THE COURT ORDERS:</b>  |   |
| The Request to issue a Temporary Order Appointing an Emergency Guardian is:   |   |
| <input type="checkbox"/> 1. <b>GRANTED.</b>   |   |
| A. (Name) _____ is appointed as a Temporary Emergency Guardian of the child.  |   |
| B. This Order expires on the date of the hearing on the Petition for Emergency Guardianship (Date) _____.   |   |
| C. The Emergency Guardian has the following duties and authority: _____ <input type="checkbox"/> See attached   |   |
| <input type="checkbox"/> 2. <b>DENIED</b> for the following reason(s): _____  |   |
| <input type="checkbox"/> 3. Other: _____  |   |

## §48.9795 Guardianship - Consolidation Consolidating a minor estate and minor person case

- A request to consolidate can be made on the §48.9795 guardianship petition - JN-1501.
- If the court chooses to consolidate the two cases, the estate case is consolidated into the person case and is under the jurisdiction of the juvenile court using the JG case number.
- If the court orders consolidation, there is a form - JN-1516 – Order to Consolidate Minor Guardianships that is filed in both cases.

## Statement by Proposed Guardian - JN-1514

- Must be filed at least 96 hours prior to the initial hearing on the petition.
- This is similar to the Statement of Acts under Ch. 54.

|   |  |
|---|--|
| STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY |  |
| IN THE INTEREST OF _____                        | <input type="checkbox"/> Amended                                 |
| Name _____                                      | <b>Statement by Proposed Guardian</b><br>(§48.9795, Wis. Stats.) |
| Date of Birth _____                             | Case No. _____   |

Submit this statement to the court at least 96 hours before the initial hearing on the petition for guardianship.

**UNDER OATH, I STATE:**

1. I am nominated as the proposed guardian of \_\_\_\_\_.
2. As a parent, guardian, or legal custodian, I am responsible for the following number of persons: \_\_\_\_\_.
3. I can financially provide for the child as a guardian. Please describe income, assets, debts, and living expenses: \_\_\_\_\_.
4. I am currently charged with or have been convicted of a crime: (misdemeanor or felony)  
 No  Yes If Yes, describe circumstances: \_\_\_\_\_.
5. I have been determined under §48.981(3)(c), Wis. Stats., to have abused or neglected a child.  
 No  Yes If Yes, describe circumstances: \_\_\_\_\_.
6. If appointed as guardian of the child, I will file the Annual Report on the Condition of the Child (JN-1550).
7. If appointed, I will exercise all powers and perform all duties as guardian as required by law and the court.

**For Statement of Acts by Proposed Guardian (Minor Guardianship of the Estate), use form GN-3145.**

## Is the Statement by Proposed Guardian (JN-1514) required for emergency guardianships?

The statement by proposed guardian §48.9795 (4)(d) references §48.9795 (4)(e), the initial hearing on a petition for guardianship, other than a petition for emergency guardianship.

Those statutory references are ambiguous regarding whether a Statement by the Proposed Guardian for an Emergency Guardianship is required at some point.

## Petitioner's Notice Requirements

\*noted on the bottom of each petition

### Emergency Guardianships

As soon as possible after filing the petition

### Full, Limited, & Temporary Guardianships

At least 7 days before the hearing (unless parties waive timelines)

### ICWA

- 10 days for Indian child's parents, Indian custodian, and Indian tribe.
- 15 days if sending to the U.S. Secretary of the Interior when the identity/location of the Indian child's parent, Indian custodian, or tribe cannot be determined.
- 7 days for child's guardian, legal custodian, and guardian ad litem / adversary counsel.

## Guardian ad Litem or Adversary Counsel?

### GUARDIAN AD LITEM

A Guardian ad Litem **must** be appointed for the child.

A GAL is definitely required when a §48.9795 guardianship petition is filed through disposition.

The statute is contradictory about subsequent proceedings.

### ADVERSARY COUNSEL

There is no requirement for appointing adversary counsel in §48.9795 guardianships.

The court may appoint counsel for the child under §48.23 (3-4).

SPD anticipates appointing counsel when a request is made by the child or the court.

## Guardian ad Litem Appointment - § 48.9795 (3)(a)

- The court shall appoint a guardian ad litem when a petition is filed for appointment of a guardian or termination of a guardianship under this section.
- Except as provided under sub. (6) (b) 3., the court shall appoint the guardian ad litem as soon as possible and before the initial hearing.
- The court shall appoint a guardian ad litem when it determines that a hearing for modification is to be held under sub. (9) (b).
- In a case that is contested, the guardian ad litem may file a motion pursuant to s. 48.235 (8) (b).

## Order Appointing GAL or Attorney - JD-1798A

|   |   |
|---|---|
| STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY |   |
| IN THE INTEREST OF                              | <b>Order Appointing Guardian ad Litem or Attorney</b><br><b>(Chapters 48 and 938)</b> |
| Name _____                                      | Case No. _____  |
| Date of Birth _____                             |   |

- for §48.9795 guardianship proceedings**  
law enforcement reports and records under §§48.396 (1) and 938.396 (1)(a), court records under §§48.396 (2)(a) and 938.396 (2), social welfare agency records under §§48.78 (2)(a) and 938.78 (2)(a), abuse and neglect reports and records under §48.981 (7)(a)11v, pupil records under §118.125 (2)(L), mental health records under §51.30 (4)(b)4, and health care records under §146.82 (2)(a)4. The guardian ad litem is permitted to inspect and copy the report or record on presentation of this order.
- the following records: \_\_\_\_\_

## Guardian ad Litem Duties - §48.9795 (3)(b)

- The guardian ad litem has the duties and responsibilities required under s. 48.235 (3) (a).
- The guardian ad litem represents the best interests of the child throughout the proceedings but must apply in all court proceedings the applicable standard under sub. (4) (b) 4. to 7.
- The guardian ad litem shall conduct a diligent investigation sufficient to represent the best interests of the child in court. As appropriate to the circumstances, the investigation may include, personally or through a trained designee, meeting with or observing the child, meeting with the proposed guardian, meeting with interested persons, and visiting the homes of the child and the proposed guardian.
- The guardian ad litem shall attend all court proceedings relating to the guardianship, present evidence concerning the best interests of the child, if necessary, and make clear and specific recommendations to the court at every stage of the proceedings.

|   |  |
|---|--|
| STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY | <input type="checkbox"/> Amended   |
| IN THE INTEREST OF _____                        | <b>Report of Guardian ad Litem for<br/>Guardianship of a Child<br/>(§48.9795, Wis. Stats.)</b> |
| Name: _____                                     | Case No. _____   |
| Date of Birth: _____                            |  |

I am the court appointed Guardian ad Litem for the above-named child and report to the court that I have completed the following duties and make the following report and recommendations:

**GENERAL DUTIES**

1. I conducted a diligent investigation sufficient to represent the best interests of the child in court, which included the following activities: (Select all that apply)

I personally met with or observed the child. The date last met with or observed the child was [Date] \_\_\_\_\_

I personally met with or spoke to the proposed guardian.

I personally met with or spoke to other interested persons, including: \_\_\_\_\_

I personally visited the home of the  child and/or  guardian.

A trained designee (Name) \_\_\_\_\_ performed the following: \_\_\_\_\_

Additional activities: \_\_\_\_\_  See attached

2. I inspected the following reports and records relating to the child and, upon presentation of necessary releases, records relating to the child's family and the proposed guardian: \_\_\_\_\_

**CHILD'S WISHES**

3. The best interests of the child  are  are not substantially inconsistent with the wishes of the child. Adversary counsel  is  is not requested by the minor. Adversary counsel  is  is not recommended.

**RECOMMENDATION**

4. Based on my investigation, I recommend that the court find that:

It is in the best interest of the child to appoint the proposed guardian (Name) \_\_\_\_\_ as the child's guardian.

It is in the best interest of the child to appoint another person (Name) \_\_\_\_\_ as the child's guardian.

It is not in the best interest of the child to grant the proposed guardianship.

5. It is my opinion that the proposed guardian (Name) \_\_\_\_\_  is  is not fit, willing, and able to serve as guardian of the child based on the following information: \_\_\_\_\_  See attached

6. It is my opinion that the proposed successor guardian (Name) \_\_\_\_\_  is  is not fit, willing, and able to serve as guardian of the child based on the following information: \_\_\_\_\_  See attached

7. It is my opinion that the standard for the following type of guardianship and conditions have been met:

**Full Guardianship**

- All of the duties and authority specified in §48.023, Wis. Stats., the duty and authority to make

## Report of the Guardian ad Litem - JN-1512

is available to provide  
information on GAL  
duties, wishes of the  
child, and  
recommendations



## Nomination of Guardian by Parent or Child JN-1510

- A parent can nominate a proposed guardian of the child and/or a successor guardian.
- A child 12 or older can nominate a proposed guardian.
- The court may dispense with child's nomination if the child is out of state or good reason exists.

| STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY   | <input type="checkbox"/> Amended |
|---|----------------------------------|
| IN THE INTEREST OF  |                                  |
| <b>Nomination of Guardian<br/>by Parent or Child<br/>(\$48.9795, Wis. Stats.)</b>   |                                  |
| Name _____  |                                  |
| Date of Birth _____   | Case No. _____                   |
| <b>I STATE:</b>   |                                  |
| <input type="checkbox"/> 1. I am a parent to the child of these guardianship proceedings:   |                                  |
| <input type="checkbox"/> A. I nominate the following person as the guardian of the child of these proceedings:  |                                  |
| Name _____  |                                  |
| Address _____   |                                  |
| Phone _____   |                                  |
| <input type="checkbox"/> B. I nominate the following person as the successor guardian of the child of these proceedings:  |                                  |
| Name _____  |                                  |
| Address _____   |                                  |
| Phone _____   |                                  |
| <input type="checkbox"/> 2. I am a child 12 years of age or older who is subject to these guardianship proceedings.   |                                  |
| I nominate the following person as my guardian of the person of these proceedings:  |                                  |
| Name _____  |                                  |
| Address _____   |                                  |
| Phone _____   |                                  |
| If a minor ward 14 years of age or older wishes to nominate a guardian of the estate, use form GN-3320.   |                                  |
| <input type="text"/> Signature<br><input type="text"/> Name Printed or Typed<br><input type="text"/> Address<br><input type="text"/> Email Address<br><input type="text"/> Telephone Number <input type="text"/> Date |                                  |
| <b>DISTRIBUTION:</b>  |                                  |
| 1. Court  |                                  |
| 2. Child - if 12 years or older   |                                  |
| 3. Child's Parents  |                                  |
| 4. Child's Guardian   |                                  |
| 5. Child's Legal Custodian  |                                  |
| 6. Child's Guardian ad Litem/Advisory Counsel   |                                  |
| 7. Title (if any)   |                                  |
| 8. Indian Custodian (if any)  |                                  |
| 9. Additional Interested Persons (if any)   |                                  |

## \$48.9795 Guardianship Stay

The \$48.9795 Full, Limited, or Temporary guardianship case must be stayed until the pending Chapter 48 or 938 case reaches Disposition.

It is possible to schedule the CHIPS/JIPS/Delinquency Dispositional Hearing at the same time as the Guardianship Hearing.

Exception: Emergency Guardianships

## Can a §48.9795 Emergency Guardianship move forward when there is a pending Chapter 48 or 938 case?

Yes, an Emergency guardianship can move forward when there is a Chapter 48 or 938 case pending pre-disposition.

An Order Appointing an Emergency Guardian may not change the placement of a child under the supervision of a court pursuant to s. 48.13, 48.133, or 48.14 (1) to (10) or (12) or ch. 938.

## Additional Timelines after Initial Hearing

Fact-Finding or Fact-Finding and Dispositional Hearing



Adjournments

Hearings can be adjourned for good cause under §48.315.

## **The Letters of Guardianship and Dispositional Order Appointing Guardian are combined into one order.**

### **The court can order:**

- Reasonable rules of parental visitation,
- Amount of support to be paid by the child's parent(s), and/or
  - \*this will not be enforced by child support
- Successor guardian.

None of these guardianship orders can change the placement of a child under the supervision of the court pursuant to Chs. 48 or 938.

## **ICWA is incorporated into § 48.9795**

- Registered mail notice must be sent to the parents, Indian custodian, and tribe.
- Findings related to serious damage (QEW Testimony), active efforts, and placement preferences are required.
- An Emergency Guardianship only requires an imminent harm finding.
- ICWA findings are included in the forms, with ICWA forms created where applicable.

## Can Co-Guardians be nominated or appointed in a § 48.9795 Guardianship?

- §48.9795 allows co-guardians under §48.9795 (2)(b)4 – the court may appoint co-guardians of the person for a child under this section.
- Both of the co-guardians can be inserted on the nomination of guardian section of the petition.
- The court would include both names on the Letters of Guardianship and Dispositional Order.

It might help to order Grandma and/or Grandpa so that both co-guardians do not have to sign everything for the child.

## Can a Chapter 54 standby guardian be appointed in a §48.9795 guardianship?

- §48.9795 does not have a standby guardian.
- If a standby guardian was named in a previous Chapter 54 case, a successor guardian will likely have to be appointed.
- JN-1581 includes an Other line under the Court Orders.
- Courts can explain a successor was appointed since there are no longer standby guardian procedures under §48.9795.

## Can the parents or proposed guardian be ordered to pay the GAL Fees under § 48.9795?

- Under s. 48.235(8), the court may order the parents to provide reimbursement for the GAL fees, but it is not required.
- The statute reads, “..the court may order either or both of the parents of a child for whom a guardian ad litem is appointed under this chapter [Ch. 48] to pay all or part of the compensation of the guardian ad litem.”
- The statutes do not specifically authorize ordering guardians to pay the GAL fees.

### JN-1540 - Request to:

- Modify
- Extend
- Terminate
- Reconsider/Modify Emergency

|   |  |                 |                                      |                             |  |                             |  |                             |  |                                    |  |   |  |
|---|--|-----------------|--------------------------------------|-----------------------------|--|-----------------------------|--|-----------------------------|--|------------------------------------|--|---|--|
| STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY   |  |                 |                                      |                             |  |                             |  |                             |  |                                    |  |   |  |
| IN THE INTEREST OF _____<br>Name _____<br>Date of Birth _____   | <input type="checkbox"/> Amended<br><b>Request to</b><br><input type="checkbox"/> <b>Modify</b> <input type="checkbox"/> <b>Terminate</b><br><input type="checkbox"/> <b>Extend Limited or Temporary</b><br><input type="checkbox"/> <b>Reconsider or Modify Emergency</b><br><b>Guardianship</b><br>(§48.9795, Wis. Stats.)<br>Case No. _____ |                 |                                      |                             |  |                             |  |                             |  |                                    |  |   |  |
| <b>I STATE ON INFORMATION AND BELIEF:</b>   |  |                 |                                      |                             |  |                             |  |                             |  |                                    |  |   |  |
| 1. I am interested as: _____  |  |                 |                                      |                             |  |                             |  |                             |  |                                    |  |   |  |
| 2. <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Child's Address</td> <td style="width: 50%;">County where child currently resides</td> </tr> <tr> <td>Parent 1's Name and Address</td> <td><input type="checkbox"/> Parent 1 is deceased.</td> </tr> <tr> <td>Parent 2's Name and Address</td> <td><input type="checkbox"/> Parent 2 is deceased.</td> </tr> <tr> <td colspan="2">Guardian's Name and Address</td> </tr> <tr> <td colspan="2">Legal Custodian's Name and Address</td> </tr> <tr> <td colspan="2">Guardian ad Litem's Name and Address (if any)</td> </tr> </table> |  | Child's Address | County where child currently resides | Parent 1's Name and Address | <input type="checkbox"/> Parent 1 is deceased. | Parent 2's Name and Address | <input type="checkbox"/> Parent 2 is deceased. | Guardian's Name and Address |  | Legal Custodian's Name and Address |  | Guardian ad Litem's Name and Address (if any) |  |
| Child's Address   | County where child currently resides   |                 |                                      |                             |  |                             |  |                             |  |                                    |  |   |  |
| Parent 1's Name and Address   | <input type="checkbox"/> Parent 1 is deceased.   |                 |                                      |                             |  |                             |  |                             |  |                                    |  |   |  |
| Parent 2's Name and Address   | <input type="checkbox"/> Parent 2 is deceased.   |                 |                                      |                             |  |                             |  |                             |  |                                    |  |   |  |
| Guardian's Name and Address   |  |                 |                                      |                             |  |                             |  |                             |  |                                    |  |   |  |
| Legal Custodian's Name and Address  |  |                 |                                      |                             |  |                             |  |                             |  |                                    |  |   |  |
| Guardian ad Litem's Name and Address (if any)   |  |                 |                                      |                             |  |                             |  |                             |  |                                    |  |   |  |

- There are now clear procedures for post-disposition requests.
- §48.9795 procedures would be used for any existing Chapter 54 minor guardianship of the person requests.

## Request to Terminate Guardianship JN-1540

- The term of guardianship order expired.
- The child married.
- The child died.
- The child's residence changes from this state to another state and a guardian is appointed in the new state of residence.
- The guardian died, or resigned and the resignation is accepted by the court, and a successor guardian was not appointed.
- The court removed the guardian and a successor guardian was not appointed.
- The child was adopted.

## Request to Terminate Guardianship by a Parent or Child - JN-1540

### Parent or child must prove:

- There has been a substantial change in circumstances since last order affecting the guardianship;
- Parent is fit, willing, and able to carry out duties of a guardian AND no compelling facts or circumstances exist demonstrating that guardianship is necessary; **and**
- Termination of guardianship is in the best interests of the child.

### Burden is on the parent or child requesting termination.

- Standard: Preponderance of the evidence.
- If denied, there is no waiting period to re-file another request.

## Can an Emergency Guardianship be turned into a Full, Limited, or Temporary Guardianship?

Emergency  
Guardianships



Full, Limited, and  
Temporary  
Guardianships

§48.9795 does not have any language or a procedure to turn an Emergency Guardianship into a Full, Limited, or Temporary Guardianship.

Only one Disposition can be entered into CCAP in juvenile cases.

An emergency guardianship has very different hearing timelines, notice requirements, and findings than the Full, Limited, and Temporary Guardianships.

## Do parties have a right to substitution within §48.9795 guardianships?

§48.29 - Substitution of Judge does not exclude guardianship proceedings and §48.9795 guardianships are within Chapter 48, so it likely applies.

We defer to the judge to ultimately make the decision since it is not specifically mentioned within §48.9795.



## Are Annual Reports Required?

### Full

Yes, it is required to be filed annually.

### Limited

May be required to be filed at the discretion of the court.

### Temporary

No, it is not required by statute.

### Emergency

No, it is not required by statute.

Each county determines when packets are sent and due.

## How do you modify visitation or an amount of support that was ordered in a §48.9795 guardianship?

A Request to Modify (JN-1540) should be filed within the §48.9795 JG case that ordered the visitation or amount of support.

A new case should not be opened.



## **Can a corporate guardian be named the guardian within a §48.9795 guardianship?**

§48.9795 does not prohibit corporate guardians.

2019 WI Act 109 did not amend §54.15 (7) regarding corporate guardians. This implies the section would apply to both minors and adults.

## **Can a CHIPS case result in permanency through a §48.9795 Guardianship case instead of a §48.977 CHIPS Guardianship ?**

Absolutely! Once the case has reached Disposition, either a §48.977 CHIPS Guardianship or a §48.9795 Guardianship can be entered.

If the proposed guardian qualifies for a §48.977 subsidized guardianship, the agency must pursue a §48.977 guardianship.

## Can §48.9795 guardian receive payments?

§48.9795 guardians are not eligible for the §48.977 subsidy; however, they may qualify for kinship care payments.

## Can Court Commissioners hear §48.9795 Guardianship cases?

A Court Commissioner can only hear uncontested §48.9795 guardianship proceedings.

§757.69 (1)(g)

# §48.9795 Questions?



## Resources

[www.wiccuptraining.com](http://www.wiccuptraining.com)

### Module 3: Specialty Topics

[Interstate Compact on the Placement of Children](#)

[Adoption](#)

[Qualified Residential Treatment Program](#)

[WICWA](#)

[Child Safety Decision-Making](#)

[§ 48.977 Guardianship](#)

[§ 48.9795 Guardianship](#)

\*Filing Guide is also available in Spanish

## FILING A MINOR GUARDIANSHIP OF THE PERSON CASE

This document provides general information about  
Minor Guardianships of the Person and is not legal advice.

### 1 Which type of guardianship are you requesting?

#### FULL GUARDIANSHIP

- A full guardianship requires the Petitioner to prove facts and circumstances establishing that the child's parents are unfit, unwilling, or unable to provide for the care, custody, and control of the child or other compelling facts and circumstances demonstrating that a full guardianship is necessary.
- A full guardian's duties and authority include:
  - All of the duties and authority specified in 48.023, Wis. Stats., the duty and authority to make important decisions in matters having a permanent effect on the life and development of the child and the duty to be concerned about the child's general welfare, including but not limited to:
    - The authority to consent to marriage, enlistment in the U.S. armed forces, major medical, psychiatric and surgical treatment, and obtaining a motor vehicle operator's license.
    - The authority to represent the child in legal actions and make other decisions of substantial legal significance concerning the child.
    - Reasonable visitation of the child.
    - The rights and responsibilities of legal custody except when legal custody has been vested in another person or when the child is under the supervision of the department of corrections or a county department.
  - The right to change the residence of the child from Wisconsin to another state.
  - The guardian must immediately notify the court of any change in the address of the guardian or child.
  - The guardian must make an annual report to that court on the condition of the child. The report shall include the location of the child, the health condition of the child, and any recommendations regarding the child.
- A full guardianship remains until the child is 18 years old unless terminated earlier.

THANK  
YOU

Court contacts:

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