FILING A MINOR GUARDIANSHIP OF THE PERSON CASE

This document provides general information about §48.9795 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.

LIMITED GUARDIANSHIP

- A limited guardianship requires the Petitioner to 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.
- A limited guardian has limited duties and authority. The court may order:
    - 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.
- Additionally, the court may limit the guardian's authority regarding:
    - a parent retains power to make the following decisions within the parent's ability to exercise effectively.
    - the physical custody of a guardian is limited to allow shared physical custody between the guardian and parent since it is in the best interests of the child.
- The court decides the expiration date of a limited guardianship.
    - A limited guardianship can be extended.

TEMPORARY GUARDIANSHIP

- A temporary guardianship requires the Petitioner to 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.
- A temporary 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.
- A temporary guardianship can be ordered up to 180 days.
    - A temporary guardianship can be extended once for up to an additional 180 days.

EMERGENCY GUARDIANSHIP

- An emergency guardianship requires the Petitioner to prove facts and circumstances establishing that the welfare of the child requires the immediate appointment of an emergency guardian.
- An emergency guardian's authority shall be limited to the acts, which are reasonably related to the reasons for the appointment
- An emergency guardianship can be ordered up to 60 days.
    - An emergency guardianship cannot be extended.
- A Temporary Order Appointing an Emergency Guardian may be requested on the Petition (JN-1504) until the hearing on the Emergency Guardianship petition is held.

2 Complete a Petition for Appointment of Guardian

- JN-1501 - Full, Limited, and Temporary Guardianships
    - For an Indian child, use the Indian Child Welfare Act version - IW-1501.
        - *Indian child* - an unmarried person under 18 who is either:
          i) a member of a federally recognized tribe, or
          ii) the biological child of a member of a tribe AND eligible for membership.
- JN-1504 - Emergency Guardianships
- All forms are available on www.wicourts.gov
    - Click on Forms, Circuit Court, Guardianship, 48.9795 - Guardian of the Person for a Child

3 Complete the UCCJEA Form - GF-150

- All forms are available on www.wicourts.gov
    - Click on Forms, Circuit Court, Guardianship, 48.9795 - Guardian of the Person for a Child

4 Provide Notice to Parties

- It is the petitioner's responsibility to provide notice of the hearing and a copy of the petition to all parties once you receive the hearing date from the court.
- **Full, Limited, and Temporary Guardianships:**
  - The child (if 12 years or older), child's parents, guardian, legal custodian, and any other interested persons at least 7 days before the date of the hearing.
    - Proof of personal service, certified mail, or written admission of service of the person served is required.
  - *For an Indian child* - an unmarried person under 18 who is either: i) a member of a federally recognized tribe, or ii) the biological child of a member of a tribe AND eligible for membership.
    - The Indian child's parents, Indian custodian, and tribe must receive notice at least 10 days before the date of the hearing. If the identity or location of the Indian child's parent, Indian custodian, or tribe cannot be determined, the U.S. Secretary of the Interior must receive notice at least 15 days before the date of the hearing.
      - Proof of registered mail is required.
    - The child (if 12 years or older), guardian, legal custodian, and guardian ad litem / adversary counsel, and any other interested parties at least 7 days before the date of the hearing.
      - Service shall be made by first class mail or by personal service.
- **Emergency Guardianships:**
  - The child (if 12 years or older), child's parents, guardian, legal custodian, and any other interested persons as soon as possible after filing the petition.
  - Notice shall be served by the most practical means possible, including personal service or service by electronic mail or telephone.

5 Complete a Statement by Proposed Guardian

- The proposed guardian must complete JN-1514 - Statement by Proposed Guardian
  - All forms are available on www.wicourts.gov
    - Click on Forms, Circuit Court, Guardianship, 48.9795 - Guardian of the Person for a Child
- This statement must be submitted to the court at least 96 hours before the hearing on the Full, Limited, or Temporary Guardianship petition.

6 Optional Requests

- If you are also requesting a Minor Guardianship of the Estate, you must complete GN-3290 - Petition for Guardianship of the Estate (Minor Guardianship).
  - This form is located on www.wicourts.gov
    - Click on Forms, Circuit Court, Guardianship, Minor Estate
- If you are requesting an Emergency Guardianship, a Temporary Order Appointing an Emergency Guardian may be requested on the Petition (JN-1504) until the hearing on the Emergency Guardianship petition is held.

7 Court Staff Cannot Provide Legal Advice

- Court staff cannot provide legal advice or recommend which type of guardianship to file.
- If you have legal questions, please speak to an attorney.