

**IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL
CIRCUIT LAKE COUNTY, ILLINOIS
GUARDIANSHIP OF MINORS INFORMATION
PACKET**

Guardianship of the Person Only through the Guardianship Help Desk

**For information on Guardianship of the Estate of a Minor
See "Frequently Asked Questions" section**

I. GENERAL

1. All of the representations you will be making to the Court will be under **penalties of perjury**. Be sure to make accurate and truthful statements.
2. The Help Desk assistance is free of charge and staffed by volunteers. The Help Desk is located in C-200 of the Main Courthouse, 18 North County Street, Waukegan, Illinois, 60085, and is open on Fridays when court is in session starting at 8:30 a.m. Cases are called at the Help Desk in the order in which they check in. Accordingly, parties should report to the Help Desk at 8:30 a.m. or as soon as possible thereafter on the morning your case is scheduled.
3. You (Petitioner[s]) **must meet** with the Help Desk before your first Court appearance. Unless you are instructed otherwise, you should meet with the Help Desk prior to any subsequent Court appearances.
4. Unless the Judge instructs otherwise, you are **not** to bring the minor to Court.
5. You will be required to consent to a criminal record and DCFS background check.

II. FIRST COURT APPEARANCE

6. Before the First Court Appearance, a Petition for Appointment of Guardian for a Minor ("Petition for Guardianship") must be completed and e-filed with the clerk's office. Links to Instructions for e-filing can be found in Frequently Asked Questions, Section IV, Paragraph 30.
7. You must pay a filing fee when filing the Petition. If you are indigent and wish to request waiver of fees, you must file an Application for Waiver of Court Fees. The Application will be presented to the Judge at the First Court Appearance to request waiver of the court fees.
8. After the Petition for Guardianship is e-filed, the clerk will set a date for the First Court Appearance on the next available Friday morning. On the First Court Appearance date, you will need to bring with you the minor's birth certificate, and the parent's death certificate or prior guardian's death certificate, if applicable. You should also bring the Appearance and Consent form signed by at least one parent if you are seeking appointment as a temporary guardian.
9. If you do not have the Appearance and Consent of a parent, or nearest living relative, you must send Notice of the hearing and a copy of the Petition to that parent. Send a NOTICE OF MOTION form (yellow copy) and a copy of your Petition to the non-consenting party notifying them that you will appear in court.
 - a. A NOTICE OF MOTION may be obtained from the clerk. Prior to appearing in court, you must sign the affidavit of service at the bottom of the NOTICE OF MOTION and you must e-file the original NOTICE OF MOTION (white copy) with the clerk.
 - b. Provide the written NOTICE OF MOTION, containing the date, time, and place of the hearing by regular mail or in person to the parents or nearest relatives of the minor (and any person who

has legal custody or guardianship of the minor) at least four (4) days before the day of the hearing.

- c. If the parents can't be located, you must show the last known address of the missing parent and send notice to that parent at the last known address.
10. The nearest relatives of an unmarried minor are the parents and adult brothers/sisters of the minor. If there are no living parents or adult siblings of the minor then the next nearest adult relatives such as grandparents, uncles, and aunts are considered the nearest relatives.
11. You should report to the Help Desk by 8:30 a.m. on your first court date. The Help Desk volunteers will assist you with the completion of the necessary forms to present to the Judge. Once the forms are completed, you will be instructed to go to Courtroom 201.
12. You may request an order giving you the authority to obtain a birth/death certificate. (NOTE: the minor's birth certificate in all cases and the death certificate for any deceased parent of the minor is necessary.)
13. If after a diligent search you cannot locate one or more of the living parents of the minor, the Court may authorize the service of the Petition on the parent(s) by publication. The necessary forms will be completed at the Help Desk but you, the Petitioner, must deliver them to the newspaper and pay any publication fees.
14. If it is necessary to establish the guardianship immediately (such as, for example, to enroll the minor in school), you may request a temporary guardianship that will expire in a short period of time.
15. Check to be sure the minor's name is on the list of cases to be heard. If it is not, tell the courtroom clerk. When your case is called, step up to the bench. The Judge will review the documents and may have some additional questions for you. If temporary guardianship is granted, you will receive Temporary Letters of Office that will allow you to act on behalf of the minor.
16. After the hearing, if the court has agreed to appoint you as the minor's guardian, the Probate clerk will send you Letters of Office that you may take to school or to anyone who needs to know you have authority to act for the minor.
17. The case will be assigned a second court appearance date for the return of the criminal background and DCFS checks, and to receive the notices, publications and birth/death certificates and other forms not presented on the first hearing date.

III. SECOND COURT APPEARANCE

18. You must bring all of the completed documents noted on the Order for Temporary Guardianship to the second court appearance. If you do not have all completed documents by the second court appearance you must still appear on the date and time scheduled for the second court appearance.
19. Failure to complete the publication or a missing document will result in a third court appearance.
20. You should report again to the Guardianship Help Desk by 8:30 a.m. on the second court appearance date listed on your temporary order.
21. When your case is called, step up to the bench. The Judge will review the documents and may have some additional questions for you. The Judge will then sign the Order Appointing Guardian and you will receive copies of all of your paperwork from the Clerk.

22. You will receive a document titled "Letters of Office" from the Clerk's office after your final court appearance. You must show this document when exercising your authority as a Guardian.

IV. FREQUENTLY ASKED QUESTIONS

23. **When does a minor need a guardian?** A minor needs a guardian of his/her **person** in the following circumstances:

- a. When the minor has no living parents or; the parents can't be found or; the parents are unable or unwilling to care for the minor;
- b. When the minor's parents want him/her to live with a relative or other adult. NOTE: Check with the local school district for their requirements.

A minor needs a guardian of his/her **estate** when he/she has, or is about to receive, any money or property with a value of at least \$10,000 (such as from insurance, inheritance or, from the settlement of a personal injury case).

24. **Who can be a guardian?** To be the guardian of a minor's person you must be: a) at least 18 years of age; b) a United States citizen; c) of sound mind and under no legal disability; and d) not a convicted felon.

25. **What is a Surety Bond and do I need one?** No, if you are only Guardian of the Person of the minor. Yes, if you are named the Guardian of the Estate of the minor. The bond must be approved by the court.

As a Guardian of the Estate you give your personal bond that you will responsibly manage the minor's estate in accordance with the allowed statutory investments. A surety is required to insure against mismanagement, theft or personal estate. A surety company will charge the estate an annual premium like a premium on an insurance policy.

Surety on the bond may be excused if the money in the estate is deposited in:

- a. a trust with a trust company or;
- b. a government insured bank account in a bank, savings & loan or credit union, subject to withdrawal only by court order or;
- c. United States obligations deposited for safekeeping in an approved depository, subject to withdrawal only by court order.

A **Certificate of Depository** form, available from the Probate clerk, may be signed by the bank or trust officer verifying the money may be withdrawn only by court order and filed with the Court. If the Certificate of Depository is filed with the Circuit Clerk, the Judge will waive the requirement to file a Surety Bond.

26. **What are the guardian's duties?**

A **Guardian of a Person** must make arrangements for the minor's care, comfort, health, and education consenting to any medical care or treatment the minor may need. The court may require a guardian to make a report to the court periodically about the minor's mental, physical, and social condition; his current living arrangements; and any medical, educational or other professional services the minor has received.

A **Guardian of the Estate** must care for, manage, and invest the ward's estate and spend what money is needed for the ward's comfort, support, and education. The guardian of the estate is required to file certain documents. These are:

- a. **INVENTORY** A guardian must file an inventory with the Court within 60 days after the guardian is appointed, listing all of the minor's assets. The requirement for filing an inventory is excused if all of the minor's money has been deposited in an account subject to withdrawal only by court order.
- b. **CERTIFICATE OF DEPOSITORY** If money is deposited in an account subject to withdrawal only by court order, you must file a receipt from the bank with the clerk. The receipt is called a Certificate of Depository.
- c. **WITHDRAWAL OF MINOR'S FUNDS** If the ward's money is deposited in a government-insured account subject to withdrawal only by court order, you must file a petition to withdraw money for the minor's needs. You will need to provide the Judge the receipts, estimates or other back-up documentation of the expenses you wish to pay for from the minor's funds. Remember, parents have the primary responsibility for the care and support of their children. You may need to provide the Judge with an Affidavit of your income and expenses when requesting funds from the minor's account.
- d. **ANNUAL ACCOUNTS** You must file an account with the court yearly, showing all money received and spent as well as the cash remaining on hand at the end of the accounting period. You must appear in court and have the accounting approved by the Judge. Call the Probate clerk to get a court date for approval when your account is ready. (The requirement for filing an account is excused if all of the minor's money has been deposited in an account subject to withdrawal only by court order.) There is a filing fee which must be paid when filing an annual account. There is no filing fee for filing a final account.
- e. **SETTLEMENT OF A CLAIM FOR PERSONAL INJURIES** A guardian must obtain the approval of the court to settle a personal injury claim of a minor by filing a petition with the court. A report from the attending physician stating the nature and extent of the injury must be filed with the petition. The minor must appear in court on the hearing date. The court may appoint an independent attorney to investigate the settlement and report back to the court.

27. What happens if I die, resign, or can no longer be guardian?

A petition to appoint a new guardian may be filed without payment of a new filing fee or opening a new case. Notice or consent is required in the same manner as when the original petition for guardianship was filed. If a guardian of the person of a minor resigns and there is no parent or any other qualified adult able or willing to be appointed as the new guardian, the minor may have to be placed in foster care under the supervision of the Illinois Department of Children & Family Services (I.D.C.F.S.).

28. What happens when the minor turns 18 years old?

When the minor turns 18, the **guardianship of the person** ends, and the guardian's Letters of Office are revoked.

If there is a **guardian of the minor's estate**, the guardian must file a final account with the Court and obtain court approval before he/she can be discharged. Unless excused by the Court, the minor must appear in court to approve the final account.

If you do not do what you are supposed to do, any person can petition to have you removed as guardian, or the Judge can remove you. The minor may sue the guardian for repayment of any misspent money.

29. What if the parent(s) want to terminate the guardianship or a new guardian is needed?

If the parent believes they are in a position to care for their child, they may petition to terminate the guardianship and discharge the guardian. The Petition/Order Discharging Guardian for a minor form should be used if the guardian is going to be changed, or the minor's circumstances have changed so there is no longer a need for the guardianship, or the parent is ready and able to care for their child.

If the guardian objects to the termination of the guardianship, the Court will follow the following statutory requirements:

Upon the filing of a petition by a minor's living, adoptive, or adjudicated parent whose parental rights have not been terminated, the court shall discharge the guardian and terminate the guardianship if the parent establishes, by a preponderance of the evidence, that a material change in the circumstances of the minor or the parent has occurred since the entry of the order appointing the guardian; unless the guardian establishes, by clear and convincing evidence, that termination of the guardianship would not be in the best interests of the minor. In determining the minor's best interests, the court shall consider all relevant factors including:

- a. The interaction and interrelationship of the minor with the parent and members of the parent's household.
- b. The ability of the parent to provide a safe, nurturing environment for the minor.
- c. The relative stability of the parties and the minor.
- d. The minor's adjustment to his or her home, school, and community, including the length of time that the minor has lived with the parent and the guardian.
- e. The nature and extent of visitation between the parent and the minor and the guardian's ability and willingness to facilitate visitation.

30. *When & where can I find the forms and go to court to obtain guardianship in Lake County?*

You are advised to obtain the necessary papers from the Circuit Clerk's office in advance of your court date. In order to get your case on the court call you must notify the clerk before the Friday that you wish to go to court. You should not wait until your court date to file your petition and pay your filing fee.

PLACE: Office of the Clerk of the Court, Probate Clerk
18 North County Street
Waukegan, IL 60085
(847) 377-3260

CLERK'S OFFICE HOURS: Monday-Friday 8:30 A.M.-5:00 P.M.

COURT: Fridays at 9:00 a.m. You must have your petition for guardianship filed and paid before you appear in court. Remember to report to the Guardianship Help Desk for your first court appearance.

Minor Guardianship forms may also be found at <http://www.lakecountycircuitclerk.org/court-forms>.

Instructions for How to Electronically File (e-filing) can be found at:

<http://19thcircuitcourt.state.il.us/1303/Center-for-Self-Representation>
<https://www.lakecountycircuitclerk.org/e-filing>

31. *What are the filing fees?*

You should contact the Circuit Clerk's office to determine the filing fees applicable to your case. By court order, the filing fee may be waived in financial hardship cases.