

INSTRUCTIONS FOR APPOINTMENT OF A GUARDIAN - MINOR

These standard instructions are for informational purposes only and do not constitute legal advice about your case. If you choose to represent yourself, you are bound by the same rules and procedures as an attorney.

GENERAL INFORMATION

- ◆ The Minor child must be a resident or be present at the time of the commencement of the proceeding in the county in which you are filing the petition.
- ◆ The Minor or a person interested in the welfare of the Minor may file the case.
- ◆ A name-based criminal history record check from the Colorado Bureau of Investigation (CBI) and a current credit report of the proposed guardian must be filed with the Court.
- ◆ If the Minor has income, such as Supplemental Security Income (SSI) or other significant income, or owns assets, such as real estate or stocks, you may need to file for conservatorship in order to manage the money or assets.
- ◆ The Court may appoint a Guardian for a Minor, if the Court finds the appointment would be in the best interest of the Minor and one of these four statements applies:
 1. The parents' consent to the appointment.
 2. The parents' parental rights have been terminated by a court order.
 3. The parents are unwilling or unable to exercise their parental rights. For example, the parents are deceased, or they have abandoned the child.
 4. Guardianship of a child has previously been granted to a third party and the third party has subsequently died or become incapacitated and the guardian has not made an appointment of a guardian either by will or written instrument.
- ◆ For additional information, please review §15-14-201 through §15-14-210, C.R.S.
- ◆ If you have a disability and need a reasonable accommodation to access the courts, please contact your local ADA Coordinator. Contact information can be obtained from the following website:
http://www.courts.state.co.us/Administration/HR/ADA/Coordinator_List.cfm

COMMON TERMS

- ☒ Petitioner: A person who files a Petition for the Appointment of a Guardian.
- ☒ Guardian: A person at least 21 years of age, resident or non-resident, who has qualified as a guardian of a Minor based on an appointment by the Court.
- ☒ Interested Person: Persons identified by Colorado Law who must be given notice of a court proceeding. **See Step 3 for a complete list.**
- ☒ Letters: Formal notice identifying the authority of the Guardian.
- ☒ Minor: An unemancipated person who is under the age of 18.
- ☒ Guardian Nominee: A person named in the petition to serve as the Guardian.
- ☒ Ward: A Minor for whom a Guardian has been appointed.
- ☒ Order: Official document identifying the authority of the Guardian and his/her responsibilities during the Guardianship.

If you do not understand this information, please contact an attorney.

FEES

A filing fee of \$199.00 is required. If you have a family situation that requires you to file a guardianship for more than one child, only one filing fee is required, if the Petitions are filed on the same day. If you are unable to pay, you must complete the Motion to File without Payment and Supporting Financial Affidavit (JDF 205) and submit it to the Court. Once you submit the completed JDF 205 form and a blank Order (JDF 206), the Court will decide whether you need to pay the filing fee.

Other fees that a party to the case may encounter are as follows (also see JDF 1):

- | | |
|--|-----------------|
| <input type="checkbox"/> Certification of Orders and Letters | \$20.00 |
| <input type="checkbox"/> Service Fees | Varies |
| <input type="checkbox"/> Copy of Documents | \$.75 per page |

The Court may appoint a Guardian ad Litem (GAL) to investigate and report back to the Court, for the purpose of determining if the Guardianship is in the best interest of the Minor.

FORMS

To access a form online go to www.courts.state.co.us/Forms. The packet/forms are available in PDF or WORD by selecting **Probate - Protective Proceedings - New Case - Guardianship - Minor**. You may complete a form online and print or you may print it and type or print legibly in black ink.

Read these instructions carefully to determine what forms you may need, as you may need all or some of the listed forms. Check with the Court where you plan to file your case to determine if they have any special requirements.

- | | |
|----------------------------------|--|
| <input type="checkbox"/> JDF 705 | Probate Case Information Sheet |
| <input type="checkbox"/> JDF 714 | Affidavit Regarding Due Diligence and Proof of Publication |
| <input type="checkbox"/> JDF 716 | Notice of Hearing by Publication |
| <input type="checkbox"/> JDF 719 | Waiver of Notice |
| <input type="checkbox"/> JDF 721 | Irrevocable Power of Attorney |
| <input type="checkbox"/> JDF 800 | Acknowledgment of Responsibilities |
| <input type="checkbox"/> JDF 805 | Acceptance of Office |
| <input type="checkbox"/> JDF 806 | Notice of Hearing to Interested Persons |
| <input type="checkbox"/> JDF 812 | Notice of Appointment of Guardian and/or Conservator |
| <input type="checkbox"/> JDF 824 | Petition for Appointment of Guardian - Minor |
| <input type="checkbox"/> JDF 825 | Consent of Parent |
| <input type="checkbox"/> JDF 826 | Consent or Nomination of Minor |
| <input type="checkbox"/> JDF 830 | Letters of Guardianship – Minor |

Indian Child Welfare Act (ICWA) Forms

Depending on your answer to the ICWA question in the Petition (JDF 824), and Consent (JDF 825) if filed, also file:

- | | |
|-----------------------------------|--|
| <input type="checkbox"/> JDF 1350 | ICWA Assessment (Domestic, Probate, Adoption) |
| <input type="checkbox"/> JDF 1351 | ICWA Declaration of Non-Indian Heritage (Domestic & Probate) |

Proposed Orders

You will also need to file one or more of the following proposed orders depending on what type of guardianship you are requesting.

- | | |
|----------------------------------|---|
| <input type="checkbox"/> JDF 827 | Order Appointing Guardian - Minor |
| <input type="checkbox"/> JDF 828 | Order Appointing Temporary Guardian - Minor |
| <input type="checkbox"/> JDF 829 | Order Appointing Emergency Guardian – Minor |

STEPS TO FILING YOUR CASE

Step 1: Complete Forms.

Selecting these instructions indicates that you are planning on filing for a Guardianship for a Minor. If you have a family situation that requires you to file a guardianship for more than one child, you will be required to prepare the appropriate forms for each child. Each child will have his or her own case for confidentiality purposes. The \$199.00 filing fee is per Petitioner(s) seeking the guardianship(s) and not per case. The Petitions must be filed on the same day. The caption below needs to be completed on all forms filed. **Make sure that you make a copy of all the forms you file with the Court for your own records.**

District Court Denver Probate Court _____ County, Colorado Court Address:	▲ COURT USE ONLY ▲
In the Interest of: Minor	
Attorney or Party Without Attorney (Name and Address): Phone Number: Email: FAX Number: Atty. Reg. #:	Case Number:
	Division: Courtroom:
NAME OF FORM	

Petition for Appointment of Guardian for Minor (JDF 824).

- The Petitioner must complete **all** applicable sections on the form.
- If the child's father is not known (no name appears on the birth certificate), then a copy of the birth certificate of the child should be attached to the Petition. If the parental rights have been terminated or the parents are deceased, copies of the termination papers or the death certificates should be attached to the Petition.
- The Petitioner must sign this form.

Acceptance of Office (JDF 805).

- Complete all applicable sections on the form and attach the name-based criminal history check and current credit report for the proposed guardian.
 - Attach a legible copy of the proposed guardian's driver's license, passport or other government-issued identification.
 - Obtain and attach a name-based criminal history record check for the proposed guardian from Colorado Bureau of Investigation (CBI). To obtain a name-based criminal history check, contact CBI at 690 Kipling Street Denver, CO 80215, (303) 239-4300, or at www.cbi.state.co.us and click on CBI Records Check.
- Obtain a current credit report of the proposed guardian. Below are a few credit reporting agencies:
 - ◆ Equifax, Inc., P.O. Box 740241, Atlanta, GA 30374, 1-800-685-1111, or at www.equifax.com
 - ◆ Experian, P.O. Box 2002, Allen, TX 75013, 1-888-397-3742, or at www.experian.com
 - ◆ TransUnion, P.O. Box 2000, Chester, PA 19022, 1-800-916-8800, or at www.transunion.com
- Redact (strikeout) all social security numbers identified on the credit report and all but the last four digits of account numbers.
- The cost for all criminal history checks and credit reports must be paid by the proposed guardian.
- The proposed guardian must sign the Acceptance of Office.

Waiver of Notice (JDF 719).

- This form can be completed and signed by any interested person (except the Minor), who wishes to waive notice of any hearings or matters before the Court.
- This form cannot be completed by the Minor. See Notice requirements in **Step 4**.

Irrevocable Power of Attorney (JDF 721).

- This form is required **only** if the proposed guardian lives out-of-state.
- The proposed out-of-state guardian must complete this form and sign it before a Court Clerk or Notary Public.

Consent or Nomination of Minor (JDF 826)

- The Minor who is the subject of the appointment, if 12 years of age or older, has the right to consent or refuse to consent to an appointment of a guardian. JDF 826 can be completed and signed by the Minor to indicate his/her consent to or refusal of the appointment.

The Court will consider the Minor's wishes, but refusal to consent does not guarantee that the Court will not appoint the proposed guardian.

Note: This is not a substitute for personal service. Step 4 - Notice of Hearing to Minor must still be completed.

- Consent of Parent (JDF 825).**
 - The Minor's parent **can consent** to the appointment by completing JDF 825.

- Indian Child Welfare Act (ICWA) – Refer to answers provided in the Petition (JDF 824), and Consent (JDF 825) if filed.**
 - ICWA Assessment (Domestic, Probate, Adoption) (JDF 1350)
 - ICWA Declaration of Non-Indian Heritage (Domestic & Probate) (JDF 1351)

- Letters of Guardianship - Minor (JDF 830).**
 - Complete only the caption on the form.
 - The Court will complete the remainder of the form and sign it following the appointment of the Guardian.

- Proposed Order (JDF 827, JDF 828 or JDF 829).**
 - Select the appropriate Order based on the type of guardianship you are requesting. The proposed order should match your selection from number 1 on the Petition – JDF 824.
 - Complete the caption and any sections on page one that applies to your case.

Step 2: You are Ready to File your Papers with the Court.

Provide the Court with the documents completed as described in Step 1 above and pay the filing fee. You may receive a hearing date from the clerk at the time of filing your paperwork or you may need to contact the clerk later to obtain the hearing date. The date and time of this hearing is important, as you will need it to complete the Notice of Hearing or publication forms described in **Step 3 and Step 4.**

Step 3: Notice to Interested Persons. (By Mail or Publication)

After the Petition for Appointment of Guardian for Minor is filed and a hearing is set, you (the Petitioner) must give notice of the time and place of the hearing along with a copy of the Petition to the following people:

1. The minor, if the minor is 12 years old or older
2. Any person alleged to have had the primary care and custody of the minor during the 60 days before the filing of the Petition
3. Each living parent of the minor or, if there is none, the adult nearest kinship that can be found
4. Any person nominated as guardian by the minor if the minor is at least 12 years old
5. Any appointee of a parent or guardian whose appointment has not been prevented or terminated under §15-14-203(1), C.R.S. or whose appointment was consented to under §15-14-203(2)
6. Any guardian or conservator currently acting for the minor in this state or elsewhere

Service by Mail.

- If you know the address of the person to whom you are giving notice**, complete the Notice of Hearing to Interested Persons (JDF 806).
- Mail copies of **all** documents filed with the Court (including the Petition for Guardianship) **and** the completed Notice of Hearing to Interested Persons (JDF 806), at least 14 days before the time set for the hearing.
- Complete the Certificate of Service portion on the form, listing the names and addresses of all persons to whom you sent the notice and the date you sent it and file the form with the Court at or before your hearing.
- If the address of any interested person is unknown, you **must** publish the notice of the hearing in the newspaper. See Service by Publication instructions below.

Service by Publication.

If you do not have a current address for the interested persons, or if their identity is not known and cannot be ascertained with reasonable diligence, you must publish the notice of hearing in the newspaper.

Before doing this you may wish to search the Internet, contact prior employers, friends, etc. to locate a current address.

Notice of Hearing by Publication (JDF 716).

- Complete this form and have it published in a newspaper of general circulation in the county where the hearing is to be held.
- The notice must be published once a week for three consecutive weeks, with the last date of publication being at least 14 days before the hearing date.
- The Petitioner must request a publisher's affidavit from the newspaper after publication is completed. This publisher's affidavit, prepared by the newspaper, will serve as proof that the Notice of Hearing by Publication (JDF 716) was published. This publisher's affidavit must be attached to the Affidavit Regarding Due Diligence and Proof of Publication (JDF 714). See form identified below.

Affidavit Regarding Due Diligence and Proof of Publication (JDF 714).

- Complete all sections on this form. The purpose of this form is to describe to the Court your efforts to locate the individuals listed in the Notice of Hearing by Publication (JDF 716).
- The Petitioner must sign this form.

Step 4: Hearing.

The Petitioner must appear at the hearing and should be prepared to present evidence as to why the Guardianship is in the child's best interest.

- Be prepared to present evidence showing that the parents are aware of the proceedings and that they consent to the Guardianship. If the Petitioner cannot prove that the parents' consent to the Guardianship, then he/she must be prepared to present evidence showing that the parents are either unwilling or unable to take care of the child or that their parental rights have been terminated.
- If the Court appoints a Guardian, the Court will issue Letters (JDF 830) as a formal notice of the appointment and provide you with a copy of the Order Appointing Guardian. You may need certified copies of the Letters and Order. The number needed will vary, depending on your circumstances. Copies of the Order must be provided to all interested persons identified in the Order.

Step 5: Requirements after the Court Appoints a Guardian.

- Complete, sign, and file the Acknowledgment of Responsibilities (JDF 800) with the court. Letters of Appointment will not be issued until this form is filed.
- Complete, sign, and file the Probate Case Information Sheet (JDF 705) with the court, if you've not already done so. Letters of Appointment will not be issued until this form is filed.
- Refer to the Order Appointing Guardian for a Minor to determine if/when the annual report is due. The purpose of the annual report is to report to the Court and interested persons as to the wellbeing of the Minor. The Guardian's Report must be provided to the persons listed in the Order of Appointment. A guardian shall give notice of the filing of the guardian's report, together with a copy of the report to those listed in the Order of Appointment within ten days of filing the report with the court.
- Refer to the Order Appointing Guardian for Minor regarding completing the Notice of Appointment of Guardian and/or Conservator (JDF 812). The purpose of this form is to notify the Minor, if 12 years or older, and persons given notice of the Petition that they have the right to request termination or modification of the Guardianship.
- The Minor may not move outside the State of Colorado without an Order from the Court.

Note:

A Guardian's Manual is available to assist the newly appointed Guardian. This manual identifies general responsibilities and important Guardianship issues, along with completed sample forms to assist the preparer.

The responsibilities of the guardian terminate upon the death, resignation, or removal of the guardian or upon the Minor's death, adoption, marriage, or attainment of majority. Resignation of a guardian does not terminate the guardianship until approved by the Court.