

IOWA COUNTY CIRCUIT COURT

REGISTER IN PROBATE
IOWA COUNTY COURTHOUSE
222 N. IOWA STREET
DODGEVILLE, WI 53533

8:00 AM –4:30 PM
PHONE NO: 608-935-0347

MINOR GUARDIANSHIP Sec. 48.9795 (effective 8/1/2020)

Note: By law this office may not give legal advice or fill in forms. This guideline is provided as a public service and is not intended to be legal advice. Please contact an attorney if you have legal questions or need help filling out the forms.

At the time a *Petition for Appointment of Guardian* is filed, the petitioner is required to pay a \$300 deposit for Guardian ad Litem Fees to the Register in Probate. The Minor Guardianship will not be opened unless these fees are paid.

DETERMINE WHETHER A FULL, LIMITED, TEMPORARY OR EMERGENCY GUARDIANSHIP IS NEEDED:

- See attached "Types of Minor Guardianship". You must determine which type of guardianship is appropriate for your situation. If you do not know which type is appropriate, you should consult with an attorney.

TO OPEN A MINOR GUARDIANSHIP: read the forms prior to completing them; once completed; file the following with the Register in Probate Office:

FORMS: You may access these forms at: <http://www.wicourts.gov/>

- | | | |
|--------------------------|-----------|--|
| <input type="checkbox"/> | JN – 1501 | Petition for Appointment of Guardian Full/Limited/Temporary/Emergency |
| <input type="checkbox"/> | GF – 150 | Uniform Child Custody Jurisdiction & Enforcement Act Affidavit |
| <input type="checkbox"/> | JN – 1514 | Statement by Proposed Guardian |
| <input type="checkbox"/> | JN – 1510 | Nomination of Guardian by Parent or Child (if Child is 12 years or older) – form not required to open the minor guardianship |
| <input type="checkbox"/> | JN – 1520 | Proposed Temporary Order Appointing an Emergency Guardian (only if requested in an Emergency Guardianship) |

**The Register in Probate will prepare an Order Appointing Guardian ad Litem and the Notice of Hearing.

HEARING/NOTICE:

- The Register in Probate office will schedule a hearing on the guardianship petition. The initial hearing on a petition for guardianship, other than a petition for emergency guardianship, must be heard within 45 days after the filing of the petition. At the hearing, the court shall first determine whether any party wishes to contest the petition. If the petition is not contested, the court shall immediately proceed to a fact-finding and dispositional hearing, unless an adjournment is requested. If the petition is contested and all parties consent, the court may proceed immediately to a fact-finding and dispositional hearing. If any party does not consent or if an adjournment is requested, the court shall set a date for a fact-finding and dispositional hearing that allows reasonable time for the parties to prepare but is not more than 30 days after the initial hearing.

- The proposed guardian and any proposed successor guardian shall be physically present at all hearings unless the court excuses the attendance of either or, for good cause shown, permits attendance by telephone. The child is not required to attend any hearings, but if the child has nominated the proposed guardian, the child shall provide to the guardian ad litem sufficient information for the guardian ad litem to advise the court on whether the nomination is in the best interests of the child.
- For Full, Temporary & Limited Guardianships, the Petitioner shall cause the Petition and Notice of the time and place of the hearing to be served at least 7 days before the time of hearing upon all interested persons (see attached for list of interested persons). Notice shall be in writing and a copy of the Petition any other required document shall be attached to the Notice.
- For Emergency Guardianships, the petitioner shall give notice of the petition and of the time and place of the hearing to the child, if 12 years of age or over, the child's guardian ad litem, and the child's counsel, if any; the child's parents, guardian, and legal custodian; and the person nominated as emergency guardian. The notice and a copy of the petition shall be served as soon after the filing of the petition as possible, shall be served by the most practical means possible, including personal service or service by electronic mail or telephone, and shall include notice of the right to petition for reconsideration or modification of the emergency guardianship. If the petitioner serves notice of the hearing after the hearing is conducted and the court has entered an order, the petitioner shall include the court's order with the notice of the hearing.
- For an Indian Child, if the petitioner knows or has reason to know that the child is an Indian child, notice to the Indian child's parent, Indian custodian, and Indian tribe shall be provided in the manner specified in s. 48.028(4)(a). No hearing may be held until at least 10 days after receipt of the notice by the Indian child's parent, Indian custodian, and Indian tribe or, if the identity or location of the Indian child's parent, Indian custodian, or tribe cannot be determined, until at least 15 days after receipt of the notice by the U.S. secretary of the interior. On request of the Indian child's parent, Indian custodian, or Indian tribe, the court shall grant a continuance of up to 20 additional days to enable the requester to prepare for the hearing.

NOTE: Failure of the Petitioner to provide notice to all interested persons shall deprive the court of jurisdiction unless notice is specifically waived by an interested person or by the court for good cause shown.

- The Guardian ad Litem shall attend the hearing in person or by telephone and shall provide a written Report of Guardian ad Litem for Guardianship of a Child (Form JN-1512) for review at the hearing.

Prior to the court hearing you must file the following:

- JD – 1825 Affidavit of Service indicating that all interested parties were properly served
- JN – 1530 Letters of Guardianship & Dispositional Order Appointing Guardian Full / Limited / Temporary
- JN – 1521 Letters of Guardianship & Dispositional Order Appointing Emergency Guardian (if necessary)

COPIES OF DOCUMENTS: Please make sure to keep copies of all documents for your records *before* you file the documents with our office. If we have to make copies for you, there is a \$1.00/page statutory fee that must be charged.

CERTIFIED COPIES: Certified copies are available from the Register in Probate Office. The certification fee is \$3.00, plus \$1.00 for each page copied. Request for certified copies may be made in person or by mail. If the request is by mail, please enclose proof of identification (copy of driver's license/state ID, etc.), the correct fee **and** a stamped, self-addressed return envelope. Payment must be received before the issuance of certified copies.

AFTER THE COURT HEARING:

If you are appointed **Full Guardian** you must:

- File an annual Report on the Condition of the Child (a limited guardian may be required to file this report if required by the court).
- The form will be mailed to you in January of the year following your appointment and each subsequent year, and must be filed no later than April 15. **Failure to file the appropriate annual report/account may result in an order to show cause for you to appear before the court.**

"Interested person" means any of the following:

- A. The child, if he or she has attained 12 years of age, and the child's guardian ad litem and counsel, if any.
- B. The child's parent, guardian, legal custodian, and physical custodian.
- C. Any person who has filed a declaration of paternal interest under s. 48.025, who is alleged to the court to be the father of the child, or who may, based on the statements of the mother or other information presented to the court, be the father of the child.
- D. Any individual who is nominated as guardian or as a successor guardian.
- E. If the child has no living parent, any individual nominated to act as fiduciary for the child in a will or other written instrument that was executed by a parent of the child.
- F. If the child is receiving or in need of any public services or benefits, the county department or, in a county having a population of 750,000 or more, the department that is providing the services or benefits, through district attorney, corporation counsel, or other officials designated under s. 48.09.
- G. If the child is an Indian child, the Indian child's Indian custodian and Indian tribe.
- H. Any other person that the court may require.

TYPES OF MINOR GUARDIANSHIPS

FULL GUARDIANSHIP – Requires a finding 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 demonstrate that a full guardianship is necessary.

- All of the duties and authority under Sec. 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
- Required to file an annual report regarding condition of the child

LIMITED GUARDIANSHIP – Requires a finding that the child’s parents need assistance in providing for the care, custody, and control of the child. The court must specify the limited guardian’s duties and authority, and may limit such authority to allow a parent to retain certain decision-making powers.

- Limits the duties and authority of a full guardianship
- Requires an expiration date (limited guardianships can be extended-no limit on number of extensions)
- Court may allow shared physical custody between the limited guardian and the parent.
- An Annual Report of the Child may be required to be filed at the discretion of the court
- Examples: Child moves out of state to live with a relative; parent is incarcerated for a few years; military service deployment; guardian may be given healthcare and/or school authorities

TEMPORARY GUARDIANSHIP – Requires a finding that the child’s particular situation, including the inability of the child’s parents to provide for the care, custody, and control the child for a temporary period of time, requires the appointment of a 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
- Temporary guardianship cannot exceed 180 days
 - Allows for a one-time extension up to an additional 180 days
- Examples – A parent’s health condition; upcoming surgery & long recovery; short incarceration period

EMERGENCY GUARDIANSHIP – Requires a finding that the child’s welfare requires the immediately appointment of an emergency guardian.

- Emergency guardianships cannot exceed 60 days and CANNOT be extended
- Examples – Child is in need of a medical procedure; parent is threatening to remove child from proposed guardian’s care
 - TEMPORARY ORDER APPOINTING EMERGENCY GUARDIAN
 - Court can also issue a temporary order appointing an emergency guardian until a hearing on the petition is held
 - There is no timeframe to hold the Emergency guardianship hearing or maximum length of time for the temporary order

IOWA COUNTY CIRCUIT COURT

REGISTER IN PROBATE
IOWA COUNTY COURTHOUSE
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DODGEVILLE, WI 53533

MONDAY – FRIDAY
8:00 AM – 4:30 PM
PHONE NO: 608-935-0347

TERMINATION OF MINOR GUARDIANSHIP Secs. 48.977 & 48.9795 (effective 8/1/2020)

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TO FILE A PETITION/REQUEST TO TERMINATE THE MINOR GUARDIANSHIP **Petitioner is required to complete and file the following with the Register in Probate:**

1. Be sure to read the Petition/Request for Termination of Guardianship and the Consent to Termination of Guardianship forms prior to completing them:

You may access these forms at: <http://www.wicourts.gov/>

- IF GUARDIANSHIP WAS THE RESULT OF A CHIPS CASE UNDER SEC. 48.977 (MEANING THE COUNTY WAS ORIGINALLY INVOLVED WITH REMOVAL OF THE CHILD)
 - File form JG-1628 - Petition to Terminate Guardianship Order
 - IF GUARDIANSHIP WAS PRIVATELY FILED UNDER SEC. 48.9795 (OR UNDER CH. 54 PRIOR TO 8/1/20)
 - File form JN-1540 – Request to Terminate Guardianship
 - File any Consents to Termination of Guardianship (if the current Guardian(s) agree to the termination) – Iowa County form attached hereto.
 - Ask the other adults involved (parents or guardians) to fill out Consent forms and sign before a Notary. The person who signs the Petition does NOT need to sign a Consent form.
 - You may file the Petition/Request even if you DO NOT have Consents from all of the parties involved.
 - The court may order termination of guardianship without a hearing based on written consents/waivers of objection. This will be determined on a case-by-case basis.
2. The Register in Probate's office will schedule a hearing on the Petition/Request to Terminate Minor Guardianship with the Judge who entered the original guardianship order.
 3. The Court will appoint a Guardian ad Litem (GAL), which is an attorney to represent the child's best interest.

4. You must provide notice to all interested parties of the Petition/Request to Terminate Minor Guardianship (*See attached list of interested persons*).

-NOTE: failure to provide notice as required by statute will deprive the court of jurisdiction over this case and the case may be dismissed or the hearing may have to be rescheduled

-You shall serve a copy of the Petition/Request to Terminate Minor Guardianship and Consent(s) to Terminate Minor Guardianship on the child (if over 12 years old) by personal service no less than 7 days prior to the hearing date.

-You shall also deliver a copy of the Petition/Request to Terminate Minor Guardianship and Consent(s) to Terminate Minor Guardianship to all other interested persons, including the Guardian ad Litem and Corporation Counsel, either in person or by mail at least 7 days prior to the hearing date.

5. Court will send out a Notice of Hearing date to all interested parties, including the Guardian ad Litem and County Corporation Counsel.
6. You MUST appear at the hearing date.
7. Any party objecting to the termination of the guardianship MUST appear at the hearing date.
8. The Guardian ad Litem shall attend the hearing in person or by telephone or shall provide a written report concerning the child to the Court for review at the hearing.
9. Payment of costs and expenses of this action, including Guardian ad Litem fees, will be determined by the Court hearing the petition.

PROPOSED ORDERS REQUIRED BEFORE THE HEARING:*

JG-1629 – Order on Petition for Termination of Guardianship (Sec. 48.977)

-OR-

JN-1548 – Order on Request to Terminate Guardianship (Sec. 48.9795)

**The Guardian ad Litem may assist in preparation of these Orders upon request*

"Interested person" means any of the following:

- A. The child, if he or she has attained 12 years of age, and the child's guardian ad litem and counsel, if any.
- B. The child's parent, guardian, legal custodian, and physical custodian.
- C. Any person who has filed a declaration of paternal interest under s. 48.025, who is alleged to the court to be the father of the child, or who may, based on the statements of the mother or other information presented to the court, be the father of the child.
- D. Any individual who is nominated as guardian or as a successor guardian.
- E. If the child has no living parent, any individual nominated to act as fiduciary for the child in a will or other written instrument that was executed by a parent of the child.
- F. If the child is receiving or in need of any public services or benefits, the county department or, in a county having a population of 750,000 or more, the department that is providing the services or benefits, through district attorney, corporation counsel, or other officials designated under s. 48.09.
- G. If the child is an Indian child, the Indian child's Indian custodian and Indian tribe.
- H. Any other person that the court may require.

STATE OF WISCONSIN

CIRCUIT COURT
PROBATE BRANCH

IOWA COUNTY

In re the Guardianship of:

(Child's Name)

Case No. _____

(Date of Birth)

CONSENT TO TERMINATION OF GUARDIANSHIP

1. I am the child's Mother Father Guardian
2. The child now lives with Mother Father Guardian
 Other: _____
3. My name, address and phone number are:

Name

Address

Phone Number

4. I agree to ending the guardianship because: (Explain briefly what has changed since the guardian was first appointed). Attach additional pages if needed.

Subscribed and sworn to before me on
This ____ day of _____, 20__

Notary Public, State of Wisconsin
My commission expires: _____

Signature

Print Name

Date