

**IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
LAKE COUNTY, ILLINOIS**

GUARDIANSHIP OF MINORS INFORMATION PACKET

This information sheet explains the procedure to obtain guardianship of a minor. The proper forms for obtaining a guardianship must be filled out and the filing fee paid before you go to court. If you need legal advice regarding a guardianship case you should consult an attorney.

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 to find out what the requirements of the school district are.

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 \$5,000 (such as from insurance, inheritance or, from the settlement of a personal injury case). A guardianship of the estate is not needed if the only asset of the minor is the right to collect social security benefits.

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
- d) not a convicted felon

How can you become a guardian?

- PETITION

Fill out a PETITION FOR GUARDIANSHIP OF A MINOR at the Probate clerk's counter in the Circuit Clerk's office. File this petition and pay the filing and pay the filing fee. Have the clerk schedule your case for hearing on the Guardianship call. The filing fee may be waived in cases of financial hardship.

- NOTICE

Give a written notice of the date, time, and place of the hearing by 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 3 (three) days before the hearing. Notice may be sent by using a NOTICE OF MOTION form available from the clerk.

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.

At the hearing you must either:

- a) present proof that you gave notice to the parents or nearest relatives or,
- b) present a written consent letter signed by the parents or nearest relatives stating they agree that you should become the minor's guardian. Be sure that the letter contains the minor's name and your name. The letter also needs to be notarized (signed by parents or nearest relatives in the presence of a Notary Public).

If one or both parents of the minor are dead, you must file their death certificates with the petition.

If 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.

If the minor is 14 or older, he/she must consent in writing to the guardianship or be given written notice of the hearing on the petition.

- HEARING

Bring the minor to the hearing with you and check to be sure the minor's name is on the list of cases to be heard. If it isn't, tell the courtroom clerk. When the Judge calls the minor's name, approach the bench.

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.

- BONDS

If you are named to be the guardian of the estate, not just the person, of the minor, you must file a bond approved by the court.

Unless excused by the court, every bond must be guaranteed by at least two individual sureties or by a surety company.

If two individuals act as sureties, the amount of the bond must be double the value of the minor's personal estate. The individual sureties must sign a notarized list of their assets, which must be attached to the bond.

If a corporate surety is used, the amount of the bond is one and one half times the value of the minor's 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.

If the money may be withdrawn only by court order, a receipt of the depository showing that no withdrawals are allowed without court order must be filed with the Clerk of the Court. The receipt is called a Certificate of Depository. Forms are available from the Probate clerk.

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. Here are the rules for the guardian of an estate:

- **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.

- **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.

- WITHDRAWAL OF MINOR'S FUNDS

If the ward's money is deposited in a government-insured account to withdrawal only by court order, you must file a petition any time you need to withdraw money to spend for the minor's needs.

- 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 need to appear in court and get 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.

- SETTLEMENT OF A CLAIM FOR PERSONAL INJURIES

What happens when I die, resign, or can no longer be a guardian? 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 form petition for court approval is available in the Clerk's office. 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.

What happens when 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. 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.).

What happens when the minor turns 18 years old?

When the minor turns 18, 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 ward may sue for repayment of any misspent money.

When & where can I obtain forms 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: Probate Clerk
Office of the Clerk of the Court
Lake County Courthouse
18 N County Street
Waukegan, IL 60085
(847) 377-3260

TIME: Monday-Friday
8:30 A.M.-5:00 P.M.

When and where do I go to court to obtain a guardianship in Lake County?

PLACE: Courtroom _____
Lake County Courthouse 18 N County Street
Waukegan, IL 60085

TIME: Monday, Thursday or Friday

You must have your petition for guardianship filed and paid before you appear in court.

What is the fee for filing a petition for guardianship?

For guardianship of the person the fee is \$ _____

For a guardianship of the estate of a minor, the fee depends on the value of the estate.

Check with the Probate Clerk for the amount of the fee of your estate.

For a current account the fee is \$ _____

By court order, the filing fee may be waived in financial hardship cases.

NOTICE OR CONSENT IN A GUARDIANSHIP CASE

Before you appear in court, you must file with the clerk a consent to the guardianship signed by the parents or nearest living relatives of the minor, if both parents are deceased. If you are not able to obtain proper consents, you must send a NOTICE OF MOTION and a copy of your petition to the non-consenting party notifying them that you will appear in court on Monday, Thursday, or Friday at 9:00 A.M. on C-_____ for a hearing on your petition for guardianship. If you do not know the current address of a party entitled to notice, you must send notice to that party at his/her last known address. The NOTICE OF MOTION must be sent out at least 3 days before your court date. Before you appear in court, you must sign the affidavit of service on the back of the NOTICE OF MOTION and you must file the original NOTICE OF MOTION with the clerk.