



# Becoming a Minor Child's Guardian

**Note:** Use these instructions and forms to become a minor child's guardian.

By filing these forms in court, you are deciding to represent yourself in your guardianship case. These instructions and forms are written to help you give the court the right information. But they may not be right for your case. They cannot take the place of advice from a lawyer. Talk to a lawyer if you have **any** questions.

These forms are designed to help with a simple guardianship case where everybody agrees that you should be the guardian of the child. If you think that somebody will object to your guardianship – for example, one of the child's parents – then it would be better to be represented by a lawyer in court.

Read all of the instructions and forms before beginning to fill them out.

Do not change these forms. If you change the forms, you might lose important language you need. If the forms do not seem right for you, talk to a lawyer.

## Who Can Use these Forms?

You can use these forms if:

- The child is under 18 years old and not married;
- The child's parents have died without naming a guardian in their wills, or the living parents' custody rights have been terminated, suspended, or limited by circumstances or court order;
- The child is not (1) an enrolled member of an Indian tribe, or (2) the biological child of a tribal member and eligible for enrollment; and
- Making you the child's guardian would be in the child's best interests.

**Note:** If the child is (1) an enrolled member of an Indian tribe, or (2) the biological child of a tribal member and eligible for enrollment, the Indian Child Welfare Act (ICWA) may apply. Talk to a lawyer if this is your situation.

## What Forms Will I Need to Become a Minor Child's Guardian?

You must fill out a separate set of forms for each minor child, even if the children you want to be the guardian of are brothers or sisters. This packet contains the following forms:

- Petition for Guardianship of a Minor Child
- Oath and Affirmation of Guardian
- Consent to Guardianship of a Minor Child (make a copy of the blank form so each parent gets a copy)
- Nomination of Guardian by Minor Child Age 14 or Older
- Order Setting Hearing
- Notice of Hearing on Guardianship of a Minor Child
- Certificate of Mailing or Delivery of Notice of Hearing
- Order for Guardianship of a Minor Child
- Letters of Guardianship
- Affidavit of Inability to Pay (which is not included in this packet, but you can get from the Clerk of Court and use if you cannot afford filing fees)

## What Words Do I Need to Know?



**Best interest of the child** – What is best for the child. To determine the best interest of a child a judge may consider things like: what the child wants; what the parents want; the child's family relationship; how the child is doing at home, in school and in the community; the mental and physical health of the child, caregivers and parents; who has been caring for the child and for how long; and the developmental needs of the child. The judge may not consider all of these factors and the judge may consider other factors. No one factor will control the judge's decision. See § 40-4-212 MCA.

**Limited by circumstances** – A parent's ability to care for a minor child may be limited by things outside the parent's control. For example, a parent may be in prison, in drug treatment or be unable to care for the child for several months due to a job transfer or long term medical condition.

**MCA** - The laws of Montana are called the Montana Code Annotated or "MCA." The laws related to guardianship of a minor can be found in Title 72, Chapter 5, Part 2. An easier way to write one of these laws is § 72-5-222 MCA. The symbol § means section. The MCA can be found at your local library or on the Montana State Law Library website at: [courts.mt.gov/library](http://courts.mt.gov/library).

**Minor Child**- A minor child is a person who is under 18 years old.

**Petitioner or Petitioner Pro Se** - A Petitioner is someone who files a petition in court. If you are asking the court to make you the guardian of a minor child, you are the Petitioner. A Petitioner Pro Se is a Petitioner who is representing himself or herself in court – that is, appearing in court without a lawyer.

**Ward** - A minor child who has a guardian is called a "ward." If the court makes you a guardian of a child, the child will be your "ward."

## **Can I Get More Information or Help?**

There are resources available to assist you in filling out these forms.

**The Court Help Program.** The Court Help Program provides assistance to people representing themselves in court. There are Self-Help law centers located throughout the state to assist you on a walk-in basis and travelling appointments to other courthouses. Self-Help staff are not lawyers and cannot provide legal advice. Staff are informed about the court process and can answer many questions as well as review

your forms for completeness. Find the Court Help services near you:

[www.courts.mt.gov/selfhelp](http://www.courts.mt.gov/selfhelp)

**Montana Legal Services Association.** Montana Legal Services Association coordinates volunteer attorney legal resources at a free or reduced cost. If you qualify financially for assistance, Montana Legal Services may connect you with a pro bono attorney, an attorney at a reduced fee, or local attorney resources in your area. Visit [www.MontanaLawHelp.org](http://www.MontanaLawHelp.org), [www.mtlsa.org](http://www.mtlsa.org), or call MLSA at 1-800-666-6899.

**State Bar of Montana.** If you are interested in hiring an attorney to advise you or represent you in this matter, the State Bar Lawyer and Information Referral Service is a database of attorneys. You can be connected with attorneys for any place in the state to help your family legal matter. Access the Lawyer Referral and Information Service by visiting [www.montanabar.org](http://www.montanabar.org) or calling 1(406)449-6577.

## **What forms are in this Packet?**

The **Petition for Guardianship of a Minor Child** asks the court to schedule a hearing and make you the guardian of the minor child. The Petition should refer to the child by his or her full name. The name of the child, date of birth, and Social Security number can be provided separately to the court in the Sensitive Data Form if required. It is important to check with your local Clerk of District Court before filling in this information.

The **Oath and Affirmation** is a statement completed by the person applying to become a guardian and filed with the Petition for Guardianship. By signing this form, you promise to be loyal to the child and to protect his or her best interests. You promise that any property that the child may have or that you may get as a guardian will be used for the child, not for yourself. You promise to avoid situations where you may have to choose between the child's interests and somebody else's, always staying loyal to the

child. You promise to always be careful in carrying out your responsibilities as a guardian.

The **Consent to Guardianship of a Minor Child** tells the court that the parents who are living agree you should be appointed as the child's guardian. Each of the child's parents should fill out a consent form. You will need to make a copy of the consent form in this packet for the second parent.

The **Nomination of Guardian by Minor Child Age 14 or Older** is a form you will only use if the child is 14 or older and wants you to be his or her guardian. The child will fill out the form.

The **Order Setting Hearing** will be filled out by the judge and will tell you when and where your hearing will be held.

The **Notice of Hearing on Guardianship of a Minor Child** will have the time and date of hearing filled out by the judge or the Clerk of Court (also called the "Clerk of District Court"). The Petitioner is responsible for filling in their personal information at the top and the information in the caption as detailed below. This is what you must send to the child (only if the child is over 14 years old), the child's parents (only if still living), and the person who has had care and custody of the child for the 60 days before you filed the action (only if this person is not you). If you do not know the names and addresses of the people who must get notice and have tried to find them, you may be allowed to publish the notice in a newspaper.

The **Certificate of Mailing or Delivery of Notice of Hearing** is a form you will fill out and file with the court after you have given notice of the hearing as described above.

The **Order for Guardianship** will be signed by the judge after the Petitioner completely fills out the document with the parties' information. The Order will legally make you the guardian of the minor child.

The **Letters of Guardianship** will be signed by the Clerk of Court after the Petitioner has filled out the caption and gotten the letters notarized. The Letters are proof that you have been appointed by the court as the guardian of the minor child. You will have to sign the Letters in front of the clerk after the judge issues an order at your hearing.

The **Affidavit of Inability to Pay** asks the court to waive filing fees in your case (which means you may file the petition and other court forms without paying the usual fees). If you cannot afford to pay the filing fees, ask your Clerk of Court for an Affidavit of Inability to Pay. This form may be called something else in your district.

## **What do I do with the Forms?**

### **1 Fill out the Forms**

- ☐ Fill out the judicial district, county, and caption on the documents you will be filing. The judicial district and county where you are filing is in the county where the child lives. The Clerk of Court can tell you if the court wants you to call the child "Child" in court papers, or if you should use the child's initials or full name.

The caption looks like this:

**Montana \_\_\_\_\_ Judicial District Court**  
*(number of the judicial district where you are filing)*  
  
**\_\_\_\_\_ County**  
*(name of the county where you are filing)*

<p>In the Matter of the Guardianship of _____:</p> <p>(write child's name)</p> <p>_____</p> <p>_____</p> <p>Petitioner (your name)</p>	<p>Cause No.: _____</p> <p>(filled out by Clerk of Court)</p> <p><b>Name of form</b></p>
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- ☐ If you would like the child's information private, fill out the "Information About Children" section on the Sensitive Data Form and sign it. You may write the child's name on this court paper if you wish to keep their name private.
- ☐ Check all the boxes and fill in all the blanks that apply to your case in the Petition for Guardianship of a Minor Child.
- ☐ Sign and date your Petition for Guardianship.
- ☐ Fill out and sign the Oath and Affirmation of Guardian.
- ☐ If possible, have one or both of the child's living parents fill out and sign a Consent to Guardianship of a Minor Child. Make a copy of the blank form if you are giving it to both parents. You may file a Petition even if neither parent signs the Consent form, but it will probably be more difficult to prove to the court that your appointment as guardian will be in the child's best interests.
- ☐ If the child (1) is 14 or older, and (2) wants you to be his or her guardian, ask the child to fill out the Nomination of Guardian by Minor Child Age 14 or Older. The court will appoint the guardian nominated by a child 14 or older unless the court believes that guardian is not in the child's best interests.

- ☐ If the child has signed the Nomination of Guardian by Minor Child Age 14 or Older, fill out the Motion to Keep Certain Information Confidential. Under section 2, write that you want the child's notarized signature sealed.

## **2 Make Copies**

- ☐ Make copies of each form after you have it filled out. For each form you should have an original, a copy to keep in a safe place and enough copies to mail to anyone else who is a part of the case. For example, if you are asking for guardianship of your grandchild, you would need the original for the court, one copy to keep and one copy for each parent, or a total of the original and three copies.



## **3 File Forms at the Courthouse**

- ☐ Take your original forms and your copies to the courthouse of the county where the child lives.
- ☐ At the Clerk's office, file the original Petition for Guardianship of a Minor Child, Oath and Affirmation of Guardian, Consent(s) to Guardianship of a Minor Child (if signed by parent(s)), Nomination of Guardian by Minor Child Age 14 or older (if the child is 14 or older and nominates you), Order Setting Hearing, and Notice of Hearing on Guardianship of a Minor Child.
- ☐ If you can't afford the filing fees, ask the Clerk of Court for an Affidavit of Inability to Pay. This form may be called something different in your court. If the court agrees that you cannot afford the filing fees, the court will write an order saying you do not need to pay filing fees. You do not have to mail this form to anyone else. It is just for you and the court
- ☐ Give the Clerk of Court a self-addressed stamped envelope. Ask the Clerk of Court to mail a "conformed copy" of the Order Setting Hearing to you after the judge signs it. If the court has not written an order saying



that you don't have to pay filing fees, you may be charged a fee for these copies.

- ☐ Give your copies to the Clerk of Court and ask her to stamp them as "Filed." Keep the copies in a safe place.

#### **4 Give Notice of the Hearing**

- ☐ When the judge sets a hearing date, you will get an Order Setting Hearing and Notice of Hearing filled out by the court. The Order Setting Hearing will tell you who must get a copy of the Notice of Hearing. See § 72-5-225(1), MCA.
- ☐ Make copies of the Notice of Hearing to give to the people who must get a copy.
- ☐ Based on the information you provided in the Petition for Guardianship, the court will determine whether you know the names and addresses of the people who must get a copy of the Notice of Hearing. If you know the names and addresses, send your copies by mail (ordinary first-class or certified mail) or deliver them by hand. You should also give each person a copy of the filed Petition for Guardianship and the Sensitive Data Form. The copies of the Notice of Hearing must be mailed or hand-delivered at least 14 days before the scheduled hearing.
- ☐ Fill in a Certificate of Mailing or Delivery of Notice of Hearing as proof that you have given the Notice of Hearing to the people who must get a copy. You must file the Certificate with the Clerk of Court before the hearing, or give it to the judge at the hearing. If possible, you should try to get a signed statement from each person saying that they have received the Notice, and attach these statements to the Certificate.
- ☐ If you do not know the names and addresses of the people who must get a copy of the Notice of Hearing and you cannot find them, the court may let you publish the Notice in a newspaper. The court will say this in the Order Setting Hearing.

- ☐ If the court tells you to publish the Notice, the newspaper will charge you for publishing it. You will need to pay the newspaper even if the court has written an order saying that you don't need to pay filing fees to the court. Get a receipt or other proof that your Notice was published. Keep the receipt or proof with your other forms. You will need it for your hearing. You may need to ask the court to keep private the proof that the notice was published, if the proof includes the name of the child or the child's parent.

## **5 Fill Out Your Order for Guardianship**

- ☐ Fill in all the blanks that you can on the Order for Guardianship of a Minor Child. If the judge makes you the child's guardian, he or she will sign the Order after your hearing.
- ☐ Make one copy of the filled-in Order for Guardianship and keep it with the rest of your forms.

## **6 Go to Your Hearing**

- ☐ Bring your stamped copies of the documents you filed with the court. Also bring your original and copy of the Order for Guardianship. In some courts, you may need to give the original Order for Guardianship to the Clerk of Court before your hearing. Check with the Clerk of Court.
- ☐ Bring the minor child with you to the hearing. The judge may ask the child some questions. If the child is 14 or older, the judge will appoint the guardian the child wants, unless the judge decides that guardian would not be in the child's best interests. See § 72-5-223, MCA.
- ☐ Arrive at the courthouse at least 15 minutes before your scheduled hearing. Dress like you are going to an important job interview.



- ☐ Check with the Clerk of Court's office to find the right courtroom for your hearing. Go to that courtroom and wait for the judge to call your name and case number. Remember to call the judge "Your Honor."
- ☐ Be prepared to tell the judge why you think making you guardian would be in the child's best interests. If you have already been taking care of the child, be sure to give the judge information about that. Bring any important papers, photos, or things to the hearing with you. The judge will expect you to bring your evidence and witnesses to the hearing. If you bring documents you will need enough copies to give one to the judge and a copy to each person who is part of the case.
- ☐ **Important:** Immediately after your hearing, take your signed Order for Guardianship and Letters of Guardianship to the Clerk of Court. You may want to ask the clerk for several certified copies of the order and letters.



**7 If you become the child's guardian, be prepared to make reports on the child and his or her property**

Some courts will require you to report on the condition of the child and any property you have control over. You must report whenever the court orders you to, or as required by court rule. Some courts will require you to report every year. See § 72-5-231(4), MCA.

**Note:** Even if the court says you are the child's guardian, your guardianship may not be permanent. The court can end your guardianship by "removing" you as guardian.

The guardianship may also end for other reasons. You can resign from being a guardian, effective when the court approves your resignation. The guardianship will automatically end if the child: (1) dies, (2) gets married, (3) is adopted, or (4) turns 18. If the guardianship ends, you will still be responsible for your acts during the guardianship. You will also need to account for the child's property or money that you controlled. See § 72-5-233, MCA.

## **8 Successor Guardianship**

You may want to ask the court to name your husband, wife, or another relative as a successor guardian, to act as guardian if you are unable to do so because of an unexpected emergency, such as illness or death. A successor guardian would only have custody of the child until a new Petition for Guardianship is filed and the court has the opportunity to appoint a new guardian. These forms have included boxes to check if you want to include a request for a successor guardian in your Petition, but a court does not have to appoint one. You should be prepared to tell the judge at the hearing why you want a successor guardian to be named.

## **9 Joint Guardianship**

If you are married and living with your husband or wife, you may want to ask the court to name him or her as a co-guardian (joint guardian). These forms are not written to include that kind of request. However, if you want to request a co-guardian, you may do so by listing both your names wherever the Petitioner's name must appear (you will both be Petitioners), and having both of you sign each of the papers filed in court, including a separate Oath and Affirmation of Guardian for each of you. The court does not have to make both of you guardians, and may choose to name only one of you. You should both be prepared to tell the judge at the hearing why you want both of you to be made co-guardians. The proposed co-guardian should sign each paper filed in court as follows:

**I declare under penalty of perjury and under the laws of the state of Montana that the information in this document is true and correct. I understand that it is a crime to give false information in this document.**

Date: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_

Signature: \_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
E-mail Address (optional)

**Petitioner appearing without a lawyer**

**MONTANA \_\_\_\_\_ JUDICIAL DISTRICT COURT, \_\_\_\_\_ COUNTY**

In the Matter of the Guardianship of

\_\_\_\_\_  
(Write the child's name)

\_\_\_\_\_

\_\_\_\_\_  
Petitioner(s) (First, Middle, Last)

**Case No:** \_\_\_\_\_

**Petition for Guardianship  
of a Minor Child**

I would like this Court to make me the guardian of a minor child.

**1 Information About Petitioner(s)**

Name: \_\_\_\_\_

Age: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ County: \_\_\_\_\_

Relation to the Child: \_\_\_\_\_

## 2 Information About the Minor Child

Child's Name: \_\_\_\_\_

Age: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ County: \_\_\_\_\_

Does the child live with you? ☐ Yes ☐ No

If yes, how long has the child lived with you? \_\_\_\_\_

Is the child married? ☐ Yes ☐ No

Is the child an enrolled member of an Indian tribe? ☐ Yes ☐ No

Is the child the biological child of a tribal member and eligible for enrollment?

☐ Yes ☐ No

Is the child 14 or older? ☐ Yes ☐ No

If the child is 14 or older, does the child nominate you as his or her guardian?

☐ Yes ☐ No ☐ the child is under 14

## 3 Information about the Child's Parents

Mother's Name: \_\_\_\_\_

Age (or deceased): \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ County: \_\_\_\_\_

The child's Mother (*check all that apply*):

☐ is no longer living.

☐ has had her parental rights to the child terminated by court order.

This happened in the \_\_\_\_\_ court of \_\_\_\_\_ (*county and state*) in \_\_\_\_\_ (*year*).

☐ has had her custody rights to the child suspended or limited by court order. This happened in the \_\_\_\_\_ court of \_\_\_\_\_ (*county and state*) in \_\_\_\_\_ (*year*)

☐ has had her ability to care for the child limited by circumstances because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

☐ consents to this Guardianship.

☐ has been asked about this Guardianship and does not consent.

I ☐ can / ☐ cannot find the Mother to tell her about this petition. If I cannot find her, this is what I have done to try to locate her:

\_\_\_\_\_  
\_\_\_\_\_

Father's Name: \_\_\_\_\_

Age (or deceased): \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ County: \_\_\_\_\_

The child's Father (*check all that apply*):

☐ is no longer living.

☐ has had his parental rights to the child terminated by court order.

This happened in the \_\_\_\_\_ court of \_\_\_\_\_ (*county and state*) in \_\_\_\_\_ (*year*).

☐ has had his custody rights to the child suspended or limited by court order. This happened in the \_\_\_\_\_ court of \_\_\_\_\_ (*county and state*) in \_\_\_\_\_ (*year*)

☐ has had his ability to care for the child limited by circumstances because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

☐ consents to this Guardianship.

☐ has been asked about this Guardianship and does not consent.

I ☐ can / ☐ cannot find the Father to tell him about this petition. If I cannot find him, this is what I have done to try to locate him:

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#### 4 Child's Best Interests

It is in the minor child's best interests for the Court to appoint the Petitioner as the child's guardian. Montana Code Annotated § 72-5-223. The Petitioner is capable and qualified to serve as the guardian of the minor child.

#### 5 Notice

The following people must be given notice of the time and date of the hearing on this Petition (*check all that apply and, if you cannot find the person's name or address, write "unknown"*):

- ☐ The child (*only if the child is 14 or older, at address above*)
- ☐ The person who has had care and custody of the child for the 60 days before the Petition was filed (*only if this person is not a Petitioner in this case*):

Name: \_\_\_\_\_

Address: \_\_\_\_\_

- ☐ The child's natural mother (*if still living*):

Name: \_\_\_\_\_

Address: \_\_\_\_\_

- ☐ The child's natural father (*if still living*):

Name: \_\_\_\_\_

Address: \_\_\_\_\_



**6 Minor Child's Property** (*check one*):

☐ The minor child has no assets or property other than personal belongings.

☐ The minor child has the following assets and property (*list the property owned by the child including income such as SSI*): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**7 Other Guardianship Actions** (*check all that apply*)

☐ No other court has appointed a guardian of the minor child.

☐ No one else has filed a petition for appointment of a guardian of the minor child.

☐ There has been another case filed for appointment of a guardian for this minor child. It is:

Case No: \_\_\_\_\_

Court in which filed: \_\_\_\_\_

Name of petitioner: \_\_\_\_\_

Result of case: \_\_\_\_\_

\_\_\_\_\_

**I respectfully ask this Court to:**

1. Schedule a hearing to decide this matter;
2. Find the child named in this Petition to be a minor whose best interests is served by having the Petitioner appointed guardian;
3. Appoint me as guardian of the minor child;
4. Issue Letters of Guardianship to me; and
5. Order any other relief the Court decides is just and proper (check all that apply)

☐ I respectfully ask the court to order the following individual to serve as Successor Guardian until another Guardian can be appointed by the court, in the event the Guardian appointed is unable to act as Guardian.

Successor Guardian: \_\_\_\_\_

Successor Guardian Address: \_\_\_\_\_

Successor Guardian Telephone Number: \_\_\_\_\_

☐ Other (describe request): \_\_\_\_\_

**I declare under penalty of perjury and under the laws of the state of Montana that the foregoing is true and correct. I understand that it is a crime to give false information in this document.**

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Sign your name)

\_\_\_\_\_  
(City) (State)

\_\_\_\_\_  
(Print your name)

*[Signature line below is for Co-Petitioner to sign if applicable]*

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Sign your name)

\_\_\_\_\_  
(City) (State)

\_\_\_\_\_  
(Print your name)

\_\_\_\_\_  
Name

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
E-mail Address *(optional)*

**Petitioner appearing without a lawyer**

**MONTANA \_\_\_\_\_ JUDICIAL DISTRICT COURT, \_\_\_\_\_ COUNTY**

In the Matter of the Guardianship of

\_\_\_\_\_  
*(write child's name)*

\_\_\_\_\_  
Petitioner(s) *(First, Middle, Last)*

**Case No:** \_\_\_\_\_

**Oath and Affirmation of  
Guardian**

I \_\_\_\_\_, accept the duties of Guardian  
of the protected person, and I will perform those duties according to the law.

By signing, accepting, or acting under this appointment, I acknowledge that I will:

1. Assume the duties and responsibilities of a fiduciary;
2. That I must work exclusively for the benefit of the protected person under guardianship; and

3. I also acknowledge that the primary duty of a guardian is the duty of loyalty to and protection of the best interests of the protected person. Therefore, I acknowledge that:

- I may not use any of the property or other assets of the protected person for my own personal benefit;
- I must direct any benefit derived from this appointment to the protected person; and
- I must avoid conflicts of interest and must use ordinary skill and prudence in carrying out the duties of this appointment.

**I declare under penalty of perjury and under the laws of the state of Montana that the foregoing is true and correct. I understand that it is a crime to give false information in this document.**

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Signature of applicant

Printed Name: \_\_\_\_\_  
(*Print your name*)

\_\_\_\_\_  
Name

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
E-mail Address (optional)

**Petitioner appearing without a lawyer**

**MONTANA \_\_\_\_\_ JUDICIAL DISTRICT COURT, \_\_\_\_\_ COUNTY**

In the Matter of the Guardianship of

\_\_\_\_\_  
(Child's name)

\_\_\_\_\_  
Petitioner(s) (First, Middle, Last)

Case No: \_\_\_\_\_

**Parent's Consent to  
Appointment of Guardian  
for Minor Child**

1. My full name is: \_\_\_\_\_.

2. I am the ☐ Mother / ☐ Father of \_\_\_\_\_.  
(Child's name)

3. I agree that (check one):

☐ my parental rights have been terminated by an order of the \_\_\_\_\_  
(County or district)

Court of the State of \_\_\_\_\_;

☐ my custody rights have been suspended or limited by court order; or

☐ my ability to care for the child has been limited by circumstances because:

\_\_\_\_\_  
\_\_\_\_\_.

This consent does not terminate my parental rights.

4. I agree the Petitioner should be appointed guardian of my minor child. I realize this means I will not have custody rights during the guardianship. The Petitioner is qualified and capable of serving as guardian of the minor child. Appointing the Petitioner as guardian of my minor child is in the child's best interests.

5. No other court has appointed a guardian for the minor child. There are no other proceedings for appointment of a guardian filed in any other court.

6. The minor child (*check one*):

- ☐ has no assets or property other than personal belongings.
- ☐ has the following assets and property (*list the property owned by the child including income such as Social Security benefits*):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

7. I give my consent to the appointment of the Petitioner as guardian of my minor child. I ask the court to issue Letters of Guardianship to the Petitioner.

8. I understand that any guardianship that lasts more than six months only ends when a court orders it to end.

9. My mailing address for purposes of receiving a copy of the filed Petition and the Notice of hearing is:

\_\_\_\_\_[Name]  
\_\_\_\_\_[Street address or P.O. Box]  
\_\_\_\_\_[City/State/Zip Code]

**I declare under penalty of perjury and under the laws of the state of Montana that the foregoing is true and correct. I understand that it is a crime to give false information in this document.**

Date: \_\_\_\_\_  
(mm/dd/yyyy)

Signature: \_\_\_\_\_  
(sign your name)

\_\_\_\_\_  
(city and state)

\_\_\_\_\_  
(print your name)

\_\_\_\_\_  
Name

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
E-mail Address (optional)

**Petitioner appearing without a lawyer**

**MONTANA \_\_\_\_\_ JUDICIAL DISTRICT COURT, \_\_\_\_\_ COUNTY**

In the Matter of the Guardianship of

\_\_\_\_\_  
(Child's name)

\_\_\_\_\_  
Petitioner(s) (First, Middle, Last)

Case No: \_\_\_\_\_

**Parent's Consent to  
Appointment of Guardian  
for Minor Child**

1. My full name is: \_\_\_\_\_.

2. I am the ☐ Mother / ☐ Father of \_\_\_\_\_.  
(Child's name)

3. I agree that (check one):

☐ my parental rights have been terminated by an order of the \_\_\_\_\_  
Court of the State of \_\_\_\_\_;  
(County or district)

☐ my custody rights have been suspended or limited by court order; or



☐ my ability to care for the child has been limited by circumstances because:

\_\_\_\_\_  
\_\_\_\_\_.

This consent does not terminate my parental rights.

4. I agree the Petitioner should be appointed guardian of my minor child. I realize this means I will not have custody rights during the guardianship. The Petitioner is qualified and capable of serving as guardian of the minor child. Appointing the Petitioner as guardian of my minor child is in the child's best interests.

5. No other court has appointed a guardian for the minor child. There are no other proceedings for appointment of a guardian filed in any other court.

6. The minor child (*check one*):

- ☐ has no assets or property other than personal belongings.
- ☐ has the following assets and property (*list the property owned by the child including income such as Social Security benefits*):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

7. I give my consent to the appointment of the Petitioner as guardian of my minor child. I ask the court to issue Letters of Guardianship to the Petitioner.

8. I understand that any guardianship that lasts more than six months only ends when a court orders it to end.

9. My mailing address for purposes of receiving a copy of the filed Petition and the Notice of hearing is:

\_\_\_\_\_[Name]  
\_\_\_\_\_[Street address or P.O. Box]  
\_\_\_\_\_[City/State/Zip Code]

**I declare under penalty of perjury and under the laws of the state of Montana that the foregoing is true and correct. I understand that it is a crime to give false information in this document.**

Date: \_\_\_\_\_  
(mm/dd/yyyy)

Signature: \_\_\_\_\_  
(sign your name)

\_\_\_\_\_  
(city and state)

\_\_\_\_\_  
(print your name)

\_\_\_\_\_  
Name

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
E-mail Address (optional)

**Petitioner appearing without a lawyer**

**MONTANA \_\_\_\_\_ JUDICIAL DISTRICT COURT, \_\_\_\_\_ COUNTY**

In the Matter of the Guardianship of

\_\_\_\_\_  
(Child's name)

\_\_\_\_\_  
Petitioner(s) (First, Middle, Last)

**Case No:** \_\_\_\_\_

**Nomination of Guardian  
by Minor Child Age 14 or  
Older**

I am the minor child in this case. I declare, under penalty of perjury, that the following information is true and correct:

1. I am a minor and I am 14 years old or older.
2. I nominate the Petitioner to be my guardian.

3. I believe the Petitioner is capable of caring for me and it is in my best interest for the Petitioner to be my Guardian.

Date: \_\_\_\_\_  
(mm/dd/yyyy)

Signature: \_\_\_\_\_  
(child's signature)

\_\_\_\_\_  
(City and state)

Printed Name: \_\_\_\_\_  
(child's printed name)

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Phone Number

**MONTANA ELEVENTH JUDICIAL DISTRICT COURT FLATHEAD COUNTY**

IN RE THE GUARDIANSHIP OF:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Petitioner(s).

Cause No.: \_\_\_\_\_

**MOTION FOR HEARING**

COMES NOW the Petitioner and moves the Court to schedule a hearing in the above-entitled cause.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature

**MOTION FOR HEARING**

11<sup>th</sup> Judicial District Revised January 2016

MONTANA \_\_\_\_\_ JUDICIAL DISTRICT COURT, \_\_\_\_\_ COUNTY

In the Matter of the Guardianship of

\_\_\_\_\_  
(Child's name)

\_\_\_\_\_  
Petitioner(s) (First, Middle, Last)

Case No: \_\_\_\_\_

**Order Setting Hearing**

This Court orders:

**1. Guardianship Hearing**

The hearing on the Petition for Guardianship of a Minor Child filed in this case is set for:

- Date: \_\_\_\_\_  
(mm/dd/yyyy)
- Time: \_\_\_\_\_ ☐ a.m. / ☐ p.m.
- Court: \_\_\_\_\_  
(Court name)
- Place: \_\_\_\_\_  
(Court address)

**2. Notice of Hearing:**

- A. ☐ The Petitioner must give notice of the hearing by mail or hand-delivery at least 14 days before the hearing to (check all that apply):

- ☐ The child (*only if the child is 14 or older, at address in petition*)
- ☐ The person who has had care and custody of the child for the 60 days before the Petition was filed (*only if this person is not the Petitioner*):

Name: \_\_\_\_\_

Address: \_\_\_\_\_

- ☐ The child's natural mother (*only if still living*):

Name: \_\_\_\_\_

Address: \_\_\_\_\_

- ☐ The child's natural father (*only if still living*):

Name: \_\_\_\_\_

Address: \_\_\_\_\_

**OR**

- B. ☐ The Petitioner must publish notice of this hearing in the (*name of newspaper*):\_\_\_\_\_. The name of the child will be included in the published notice. If the paper is published once a week, the notice must be published for 3 weeks in a row. If the newspaper is published more than once a week, the notice must be published on at least 3 different days. There must be at least 10 days between the first and last day of publication.

Date:\_\_\_\_\_

\_\_\_\_\_  
DISTRICT COURT JUDGE





\_\_\_\_\_  
Name

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
E-mail Address (*optional*)

**Petitioner appearing without a lawyer**

**MONTANA \_\_\_\_\_ JUDICIAL DISTRICT COURT, \_\_\_\_\_ COUNTY**

In the Matter of the Guardianship of

\_\_\_\_\_  
(*Child's name*)

\_\_\_\_\_  
Petitioner(s) (*First, Middle, Last*)

**Case No:** \_\_\_\_\_

**Certificate of Mailing or  
Delivery of Notice of  
Hearing and Petition**

I certify that I have given copies of the Notice of Hearing on Guardianship of Minor Child and Petition for Guardianship of a Minor Child to the following people by the method shown below.

**1. Child (*only if the child is 14 or older*):**

- ☐ On (*date*) \_\_\_\_\_, I
- ☐ mailed a copy of the Notice and Petition by ordinary first-class mail, or
- ☐ mailed a copy of the Notice and Petition by certified mail, or

☐ delivered a copy of the Notice and Petition personally to  
to: (Child's name) \_\_\_\_\_  
at: (address) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

OR

☐ The child is under 14.

**1. Person with care and custody for 60 days before the Petition was filed.**

If this person is not the Petitioner:

☐ On (date) \_\_\_\_\_, I  
☐ mailed a copy of the Notice and Petition by ordinary first-class mail, or  
☐ mailed a copy of the Notice and Petition by certified mail, or  
☐ delivered a copy of the Notice and Petition personally  
to: (name) \_\_\_\_\_  
at: (address) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

OR

☐ I am the person who has had care and custody of the child for the 60 days before the Petition was filed.

**3. Mother:**

☐ On (date) \_\_\_\_\_, I  
☐ mailed a copy of the Notice and Petition by ordinary first-class mail, or  
☐ mailed a copy of the Notice and Petition by certified mail, or  
☐ delivered a copy of the Notice and Petition personally  
to: (name) \_\_\_\_\_

at: (address)\_\_\_\_\_

\_\_\_\_\_

OR

☐ The mother's address or identity is unknown. Proof of notice by publication will be provided at the Hearing.

OR

☐ The mother is deceased.

**4. Father:**

- ☐ On (date)\_\_\_\_\_, I
- ☐ mailed a copy of the Notice and Petition by ordinary first-class mail, or
- ☐ mailed a copy of the Notice and Petition by certified mail, or
- ☐ delivered a copy of the Notice and Petition personally

to: (name)\_\_\_\_\_

at: (address)\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

OR

☐ The father's address or identity is unknown. Proof of notice by publication will be provided at the Hearing.

OR

☐ The father is deceased.

**5. Other (if ordered by the court): Name:\_\_\_\_\_**

- ☐ On (date)\_\_\_\_\_, I
- ☐ mailed a copy of the Notice and Petition by ordinary first-class mail, or
- ☐ mailed a copy of the Notice and Petition by certified mail, or
- ☐ delivered a copy of the Notice and Petition personally

to: (name)\_\_\_\_\_

at: (address)\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

OR

☐ The person's address is unknown. Proof of notice by publication will be provided at the Hearing.

**I declare under penalty of perjury and under the laws of the state of Montana that the foregoing is true and correct. I understand that it is a crime to give false information in this document.**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Petitioner

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Printed Name of Petitioner

MONTANA \_\_\_\_\_ JUDICIAL DISTRICT COURT, \_\_\_\_\_ COUNTY

In the Matter of the Guardianship of

\_\_\_\_\_  
(Child's name)

\_\_\_\_\_  
Petitioner(s) (First, Middle, Last)

Case No: \_\_\_\_\_

**Order Appointing  
Guardian of a Minor Child**

A Petition for Guardianship of a Minor Child was filed in this case. A hearing was held on (date): \_\_\_\_\_. Based on the evidence, the Court finds:

**Findings of Fact**

**1 Information about Petitioner(s)**

Name: \_\_\_\_\_

Age: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ County: \_\_\_\_\_

Relation to the Child: \_\_\_\_\_

**2 Information about Minor Child**

Name : \_\_\_\_\_

Age: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ County: \_\_\_\_\_

The child ☐ lives with / ☐ does not live with the Petitioner.

If the child lives with the Petitioner, the child has lived there for (*how long*):

\_\_\_\_\_

The child is not married.

The child is not an enrolled member of an Indian tribe, or the biological child of a tribal member and eligible for enrollment.

If the child is 14 or older, the child ☐ does / ☐ does not want the Petitioner to be his or her guardian.

### **3 Information about Child's Parents**

Mother's Name: \_\_\_\_\_

Age (or deceased): \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ County: \_\_\_\_\_

The child's Mother (*check all that apply*):

- ☐ is no longer living.
- ☐ has had her parental rights to the child terminated by court order.
- ☐ has had her custody rights to the child suspended or limited by court order.
- ☐ has had her ability to care for the child limited by circumstances.
- ☐ consents to this Guardianship.
- ☐ was asked about this Guardianship and did not consent.
- ☐ could not be located after reasonable efforts by the Petitioner.

Father's Name: \_\_\_\_\_

Age (or deceased): \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ County: \_\_\_\_\_

The child's Father (*check all that apply*):

- ☐ is no longer living.
- ☐ has had his parental rights to the child terminated.
- ☐ has had his custody rights to the child suspended or limited by court order.
- ☐ has had his ability to care for the child limited by circumstances.
- ☐ consents to this Guardianship.
- ☐ was asked about this Guardianship and did not consent.
- ☐ could not be located after reasonable efforts by the Petitioner.

## 5 Notice

The following people were given proper notice of the time and date of the hearing on this Petition (*check all that apply*):

- ☐ The child (*if the child is 14 or older*)
- ☐ The person who has had care and custody of the child for the 60 days before the Petition was filed (*if this person is not the Petitioner*):

Name: \_\_\_\_\_

Address: \_\_\_\_\_

- ☐ The child's natural mother (*if still living*):

Name: \_\_\_\_\_

Address: \_\_\_\_\_

- ☐ The child's natural father (*if still living*):

Name: \_\_\_\_\_

Address: \_\_\_\_\_

## 6 Minor Child's Property (*check one*)

- ☐ The minor child has no assets or property other than personal belongings.
- ☐ The minor child has the following assets and property (*list the property owned by the child including income such as Social Security benefits*):

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## 7 Other Guardianship Actions

- ☐ No other guardian of the minor child has been appointed by court order.
- ☐ There have been no other cases for appointment of a guardian filed in any other court.
- ☐ There has been another case filed for appointment of a guardian for this minor child. It is:

Case No: \_\_\_\_\_

Court in which filed: \_\_\_\_\_

Name of petitioner: \_\_\_\_\_

Result of case: \_\_\_\_\_

\_\_\_\_\_

## Conclusions of Law

- 1** The Court has jurisdiction over the parties and the subject matter of this proceeding. The venue of this proceeding is proper because the child lives in this county. Montana Code Annotated § 72-5-221.
- 2** The Petitioner is capable and qualified to serve as the guardian of the minor child.



- 3** It is in the child's best interests for the Petitioner to be appointed guardian of the minor child. Montana Code Annotated § 72-5-223.

## Order

This Court orders that:

### 1 Guardian Appointment

The Petitioner is appointed as the guardian of the minor child.

☐ In the event the Petitioner is unable to act as Guardian, the Court orders the following individual to serve as Successor Guardian until the Court may order otherwise.

Successor Guardian: \_\_\_\_\_

Successor Guardian Address: \_\_\_\_\_

Successor Guardian Telephone Number: \_\_\_\_\_

### 2 Letters of Guardianship

The Court will issue Letters of Guardianship to the Petitioner. The Clerk is directed to fill out the Letters of Guardianship, including the name of the child in the caption.

### 3 Notice

Copies of this order must be sent to the following (*check all that apply*):

- ☐ The person who has had care and custody of the child for the 60 days before the Petition was filed:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

☐ The child's natural mother:  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_

☐ The child's natural father:  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
DISTRICT COURT JUDGE

MONTANA \_\_\_\_\_ JUDICIAL DISTRICT COURT, \_\_\_\_\_ COUNTY

In the Matter of the Guardianship of

\_\_\_\_\_  
(Child's name)

\_\_\_\_\_  
Petitioner (s) (First/Middle/Last)

Case No: \_\_\_\_\_

**Letters of Guardianship**

This Court appointed the Petitioner(s) as guardian(s) of the minor child on (date): \_\_\_\_\_. These Letters of Guardianship are issued to (name of petitioner(s)) \_\_\_\_\_ as evidence of the appointment, qualifications, and authorities of guardianship.

Witness my signature and Seal of the Court on (date): \_\_\_\_\_.

\_\_\_\_\_  
Clerk of District Court

(Court Seal)

By: \_\_\_\_\_  
Deputy Clerk of Court

I/We, \_\_\_\_\_ (name(s)  
of Petitioner(s)), accept the duties as guardian(s) of the minor child named in this case and  
solemnly swear to perform the duties of this guardianship according to the law.

Date: \_\_\_\_\_  
(mm/dd/yyyy)

Signature: \_\_\_\_\_  
(Petitioner's signature)

Printed Name: \_\_\_\_\_

[**Notary:** strike signature lines below if only one Petitioner]

Date: \_\_\_\_\_  
(mm/dd/yyyy)

Signature: \_\_\_\_\_  
(Petitioner's signature)

Printed Name: \_\_\_\_\_

State of Montana )  
 ) : ss  
County of \_\_\_\_\_ )

Signed and sworn to (or affirmed) before me on \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_ by \_\_\_\_\_.  
[Print name or names].

Notary Signature \_\_\_\_\_  
Name (printed): \_\_\_\_\_  
Notary Public for the State of \_\_\_\_\_  
Residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

[ SEAL ]