

Instructions for Becoming a Minor Child's Guardian

These instructions and forms are for you to represent yourself in becoming a guardian of a child (under 18 years old). They give the court the right information, but they cannot take the place of advice from a lawyer. They may not be right for your case, and you should talk to a lawyer if you have any questions.

A guardianship does **not** terminate the child's parents' rights. Parental rights are only **suspended** while the guardianship is in place.

Read the instructions and forms before filling out the forms. Call your local Self-Help Law Center if you do not understand the instructions.

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.

You can use these forms if:

1. The child is under 18 years old and not married;
2. 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 such as incarceration, military deployment, or illness, or by court order;
3. Making you the child's guardian would be in the child's best interests; **and**
4. The child is not (1) an enrolled member of an Indian tribe or (2) the biological child of a tribal member and eligible for tribal enrollment.

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 tribal enrollment, the Indian Child Welfare Act (ICWA) may apply. Talk to a lawyer if this is your situation.

Information about the Forms:

- There are 9 forms to fill out and file with the Clerk of District Court (clerk) to complete the process of becoming a guardian of a child. You will file the forms in the court of the county where the child resides. **You must fill out a separate set of these 9 forms for each minor child.**

- Each form has a court caption (sample below) where you identify the court that you are filing in, the name or initials of the child, and the name(s) of the petitioner(s)—that’s you. A cause number (case number) will be assigned by the clerk when you file your petition. Each form is identified by the title on the top of the first page and on the bottom left-hand side of the form by a GM number. Sample court caption:

MONTANA 13TH **JUDICIAL DISTRICT** YELLOWSTONE **COUNTY**

<p>In the Matter of the Guardianship of</p> <p><u>Mary Smith</u> <i>(Child’s name or initials)</i></p> <p><u>John Adam Doe</u> Petitioner</p> <p><u>Jane Marie Doe</u> Co-Petitioner <i>(if applicable)</i></p>	<p>Cause No.: <u>DG-23-001</u></p> <p style="text-align: center;">Notice of Hearing on Guardianship of Minor Child</p>
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- As of March 2023, there is a statutory filing fee of \$100.00 for filing a Petition for Guardianship of a Minor Child in a district court. An **Affidavit of Inability to Pay (fee waiver)** asks the court to waive filing fees (which means you may file the petition and other court forms without paying a fee). That form is not included in this packet, but if you cannot afford to pay the filing fees, you can obtain a fee waiver (one for each petition) online (courts.mt.gov/forms/) or from your local clerk or Self-Help Law Center. File the fee waiver with your petition.
- For your records, always keep a copy of any forms you file with the clerk.
- You may fill out the forms in blue or black ink or type them. The forms must be printed one-sided on standard (8½” x 11”) size paper.
- In Yellowstone, Cascade, Lincoln, and Gallatin Counties, you should provide the clerk with a **self-addressed stamped envelope** so the Order Setting Hearing and the Notice of Hearing on Guardianship of a Minor Child can be mailed back to you. Some jurisdictions will email you those forms when signed/issued (Missoula and Flathead Counties). If you have questions, check with your local Self-Help Law Center or clerk for confirmation.

- If you become the child’s guardian, **be prepared to make reports on the child and the child’s property to the court.** Some courts will require you to report on the condition of the child and any of the child’s property you control. You must report whenever the court orders you to, or as required by court rules. Some courts will require you to report every year. See § 72-5-231(4), MCA.

Forms:

1. Petition for Guardianship of a Minor Child (GM-110)

The petition asks the court to make you the child’s guardian. In the forms, you can refer to the child by full name or by initials. In the petition, you must clearly identify the names and addresses of the biological parents, a party who may already be appointed as a guardian, and all other interested parties. Complete the petition, file the original with the clerk, and keep a copy for your records. You will also be responsible for providing a copy to all interested parties – either by mailing or hand delivering those copies or by publishing the Notice of Hearing as described below.

- a. Successor Guardian:** In your petition, you may name a successor guardian. You may want to ask the court to name your husband, wife, or another relative as a successor guardian to act as the child’s guardian if you are unable to do so because of an emergency, such as illness or death. A successor guardian would only have custody of the child until a new petition is filed and the court has appointed a new guardian. The petition and the Order Appointing Guardian have space for you to include the name of a successor guardian, but the 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.
- b. Joint Guardianship (Co-Petitioner):** If you are married or want to share duties of being a guardian, you may ask the court to name another party as a co-guardian by listing them as a co-petitioner. The court does not have to make both of you guardians and may choose to name only one of you the child’s guardian. You should both be prepared to tell the judge at the hearing why you want both of you to be made co-guardians.

2. Oath and Affirmation of Guardian (GM-200)

The oath is a statement completed by the petitioner(s) applying to become a guardian(s). By signing this form, you promise to be loyal to the child and to protect the child’s 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 always to be careful in

carrying out your responsibilities as a guardian. Complete the oath and file the original with the clerk. Keep a copy for your records.

3. Parent's Consent to Appointment of Guardian for Minor Child (GM-300)

The consent tells the court that any **living** parents agree you should be appointed as the child's guardian. Each of the child's parents should sign a separate consent. You should fill in the court caption and provide the form to each parent to complete, sign, and **return to you** for filing with the clerk. You may file a petition even if neither parent signs a consent, but it may be more difficult to prove to the court that your appointment as guardian will be in the child's best interests. File the original consent(s) with the clerk and keep a copy for your records.

4. Nomination of Guardian by Minor Child Age 14 or Older (GM-400)

The nomination is a form you will use if the child is **14 years old or older** and wants you to be their guardian. You should complete the form and provide it to the child to sign. File the original nomination with the clerk and keep a copy for your records.

5. Order Setting Hearing (GM-500)

Complete the Order Setting Hearing by filling in the court caption (top section) and inserting the names and all known addresses of interested parties (page 2). When the judge signs the order, the judge will direct that copies of the Notice of Hearing be provided to all interested parties (by mail with a certificate of service or by publishing). **When you receive the signed Order Setting Hearing, note if the judge has required you to publish the Notice of Hearing.** File the original Order Setting Hearing with the clerk and keep a copy for your records. In Yellowstone, Missoula, and Flathead Counties you do not need to provide copies of the order or a self-addressed stamped envelope to the clerk. In all other jurisdictions, check with your local Self-Help Law Center or clerk.

6. Notice of Hearing on Guardianship of Minor Child (GM-600)

Fill out the notice, inserting the names of all interested parties. The Notice of Hearing on Guardianship of a Minor Child will have the time and date of the hearing filled out by the clerk after the judge issues the Order Setting Hearing. The notice must be provided 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 are required to publish the notice and there are multiple children in the same family, **see instructions below about how to publish.**** You may also need to

ask the clerk or your local Self-Help Law Center which local newspaper(s) you are allowed to publish in.

File the Notice of Hearing with the clerk and keep a copy for your records. In Yellowstone, Missoula, and Flathead Counties, you do not need to provide a self-addressed stamped envelope or copies of the notice to the clerk. In all other jurisdictions, check with your local Self-Help Law Center or clerk.

****INSTRUCTIONS FOR PUBLISHING WHEN THERE ARE SIBLINGS WITH THE SAME BIOLOGICAL PARENTS:** If you have filed to become the guardian of more than one child in the **same family** with the **same biological parents** and you are **required to publish the Notice of Hearing because you cannot locate one or both parents**, you will not be required to pay for publishing a notice in each individual case. The court will allow you to combine the cause numbers and the minors' names on **one** notice. You will still need to file a notice **in each individual case/cause number with the court**, but you can edit the court caption on the notice to include all information on one notice to give to the newspaper for purposes of publishing. See below for a sample caption on the notice:

MONTANA 13TH **JUDICIAL DISTRICT** YELLOWSTONE **COUNTY**

In the Matter of the Guardianship of <u>Mary Smith, Derek Smith, Sally Smith</u> (Child's name or initials) <u>John Adam Doe</u> Petitioner <u>Jane Marie Doe</u> Co-Petitioner (if applicable)	Cause No.: <u>DG-23-001</u> DG-23-002, DG-23-003 Notice of Hearing on Guardianship of Minor Child
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7. Certificate of Service (GM-700)

The Certificate of Service is a form that you can only fill out and file with the clerk **after both the Order Setting Hearing and the Notice of Hearing are issued by the court**. You are required to provide notice to each and every interested party by mail/hand delivery or by publication when ordered to do so. When mailing copies, a copy of the filed Petition for Guardianship of a Minor Child and the Notice of Hearing are to be mailed to each party. The Certificate of Service demonstrates that you have provided notice.

8. Order Appointing Guardian of a Minor Child (GM-800)

Fill out all requested information in the “Findings of Fact” section in the Order Appointing Guardian of a Minor Child. This order is for the judge to sign after the hearing. The signed order will legally make you the guardian of the child, allowing the clerk to issue the Letters of Guardianship. File the original Order Appointing Guardian with the clerk and keep a copy for your records. In Yellowstone, Missoula, and Flathead Counties, you do not need to provide copies of the order or a self-addressed stamped envelope to the clerk. In all other jurisdictions, check with your local Self-Help Law Center or clerk.

9. Letters of Guardianship (GM-900)

The caption and the names in the Letters of Guardianship are filled out by you and filed with the clerk **along with your other documents** (petition, oath, etc.). The letters will be issued by the clerk **after the hearing** once the judge has signed the Order Appointing Guardian of a Minor Child. The letters are proof that you have been appointed by the court as the guardian of the child. You can sign the letters in front of the clerk or a notary after the judge issues the Order Appointing Guardian of a Minor Child at your hearing. You may want to request certified copies of the issued letters from the clerk.

Overview of Process:

- 1) **Complete the forms** (as itemized 1-9 above). Note: you cannot complete the Certificate of Service (7) until the Notice of Hearing (6) is issued by the court.
- 2) **Make copies – keep one copy of all forms for your records.** You will need copies of all documents for your records, including a petition and Notice of Hearing for every interested party.
- 3) **File original forms** with the clerk at the courthouse in the county where the minor child resides: (1) Petition for Guardianship of a Minor Child; (2) Oath and Affirmation of Guardian; (3) Parent’s Consent to Appointment of Guardian for Minor Child (if applicable); (4) Nomination of Guardian by Minor Child Age 14 or Older; (5) Order Setting Hearing; (6) Notice of Hearing on Guardianship of a Minor Child; (8) Order Appointing Guardian; and (9) Letters of Guardianship.

REMINDER: *In some jurisdictions you will need to give the clerk a self-addressed stamped envelope so the Order Setting Hearing and the Notice of Hearing on Guardianship of a Minor Child can be mailed to you (Yellowstone and Cascade Counties).*

4) Serve Notice of Hearing or publish the notice. See § 72-5-225(1), MCA.

You will receive the Order Setting Hearing signed by the judge and a Notice of Hearing issued by the clerk. You must provide copies of the issued Notice of Hearing as indicated in the notice. Fill out the Certificate of Service as proof to the court that you have been provided the Notice of Hearing and that you have given a copy of the petition and the Notice of Hearing to the people who must get a copy. File the Certificate of Service with the clerk as soon as you have served the notice and petition.

If you are required to publish the Notice of Hearing and the required newspaper is not indicated in the Order Setting Hearing, you should check with your local Self-Help Law Center or clerk to find out which newspaper in the county you must publish in. The newspaper will charge you for publishing the Notice of Hearing. 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 from the newspaper, and take that proof with you to the hearing.

Copies of the Petition for Guardianship and the Notice of Hearing must be served at least 14 days before the scheduled hearing. If you cannot mail or hand-deliver these documents, you may publish the Notice of Hearing in a newspaper.

5) Attend Your Hearing

- Arrive at the courthouse at least 15 minutes before your scheduled hearing, and dress like you are going to an important job interview.
- Go to the courtroom and wait for the judge to call your name and case number. Remember to call the judge "Your Honor."
- Take the minor child with you to the hearing. At the hearing, the judge may ask the child some questions. If the child is 14 years old or older, the judge may 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.
- Be prepared to tell the judge why you think making you the child's 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 witnesses, papers, and photos to the hearing with you. 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.

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. For example, a parent can ask the court to terminate your guardianship, or 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 years old. 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.

Words/Phrases to Know:

Best interests of the child – To determine the best interests 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 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 child may be limited by circumstances 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. For example, the law about court appointment of a guardian is written: § 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/mr/ (click on the “Legislative Branch” tab under the “Montana Resources” heading).

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 appearing in court without a lawyer (self-represented).

Ward - A 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.

The following resources are available to assist you:

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 or appointment basis, and travelling appointments are available at other courthouses. **Self-Help staff are not lawyers and cannot provide legal advice**, but they can provide information about the court process and can answer many questions, as well as review your forms for completeness. Find the Court Help services near you at www.courts.mt.gov/selfhelp.

Montana Legal Services Association. Montana Legal Services Association (MLSA) coordinates volunteer attorney legal resources at a free or reduced cost. If you qualify financially for assistance, MLSA may connect you with a free-of-charge (pro bono) attorney, an attorney at a reduced fee, or other local attorney resources in your area. Visit www.MontanaLawHelp.org, 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 Referral and Information Service is a database of attorneys. You can be connected with attorneys from any place in the state to help your family legal matter. Access the Lawyer Referral and Information Service by visiting www.montanabar.org or by calling 1-406-449-6577.

NAME

MAILING ADDRESS

CITY / STATE / ZIP CODE

PHONE NUMBER

EMAIL

Petitioner appearing without a lawyer.

MONTANA _____ JUDICIAL DISTRICT COURT _____ COUNTY

In the Matter of the Guardianship of

(Child's name or initials)

Petitioner

Co-Petitioner
(if applicable)

Cause No.: _____

**Petition for Guardianship
of a Minor Child**

I/We would like this Court to make me/us the guardian(s) of a minor child.

1. Information About Petitioner(s)

Name: _____ Name: _____

Age: _____ Age: _____

Address: _____ Address: _____

City State Zip Code City State Zip Code

Relationship to the Child: Relationship to the Child:

2. Information About the Minor Child

Name (*Child's name or initials*): _____

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 Unknown

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

Yes No

Is the child 14 years old or older? Yes No

If the child is 14 years old or older, does the child nominate you as the child's guardian?

Yes No the child is under 14 years old

3. Information about the Child's Biological Parents

Biological Mother's Name: _____

Age (or deceased): _____

Address: _____

City: _____ State: _____ County: _____

The child's biological 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.

information unknown

I can / cannot find the child's biological mother to tell her about this Petition. If I cannot find her, this is what I have done to try to locate her: _____

_____.

Biological Father's Name: _____

Age (or deceased): _____

Address: _____

City: _____ State: _____ County: _____

The child's biological 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.
- information unknown

I can / cannot find the child's biological father to tell him about this Petition. If I cannot find him, this is what I have done to try to locate him: _____

4. Child's Best Interests

It is in the minor child's best interests for the Court to appoint the Petitioner(s) as the child's guardian(s). § 72-5-223, MCA. The Petitioner(s) is/are capable and qualified to serve as the guardian(s) 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 years old or older, at child's 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: _____

City

State

Zip Code

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

Name: _____

Address: _____

City

State

Zip Code

The child's biological father (*if still living*):

Name: _____

Address: _____

City

State

Zip Code

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*): _____

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 are served by having the Petitioner(s) appointed as guardian(s);
3. Appoint me/us as guardian(s) of the minor child;
4. Issue Letters of Guardianship; 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 *Signature of Petitioner*

City *State* *Printed Name*

(Signature line below is for Co-Petitioner, if applicable.)

Date *Signature of Co-Petitioner*

City *State* *Printed Name*

NAME

MAILING ADDRESS

CITY / STATE / ZIP CODE

PHONE NUMBER

EMAIL

Petitioner appearing without a lawyer.

MONTANA _____ JUDICIAL DISTRICT COURT _____ COUNTY

In the Matter of the Guardianship of

(Child's name or initials)

Petitioner

Co-Petitioner
(if applicable)

Cause No.: _____

**Oath and Affirmation of
Guardian**

I/We, _____ *(name(s))*,
accept the duties of guardian of the protected person and will perform those duties
according to the law.

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

1. Assume the duties and responsibilities of a fiduciary and
2. Work exclusively for the benefit of the protected person under guardianship.

I/we 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/we acknowledge that:

- I/we may not use any of the property or other assets of the protected person for my/our own personal benefit;
- I/we must direct any benefit derived from this appointment to the protected person; and
- I/we must avoid conflicts of interest and 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____.

(date)

(month)

(year)

Signature of Petitioner

Printed Name

(signature of Co-Petitioner, if applicable)

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____.

(date)

(month)

(year)

Signature of Co-Petitioner

Printed Name

NAME

MAILING ADDRESS

CITY / STATE / ZIP CODE

PHONE NUMBER

EMAIL

Petitioner appearing without a lawyer.

MONTANA _____ JUDICIAL DISTRICT COURT _____ COUNTY

In the Matter of the Guardianship of

(Child's name or initials)

Petitioner

Co-Petitioner
(if applicable)

Cause 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 or initials)

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(s) should be appointed guardian(s) of my minor child. I realize this means I will not have custody rights during the guardianship. The Petitioner(s) is/are qualified and capable of serving as guardian(s) of the minor child. Appointing the Petitioner(s) as guardian(s) 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(s) as guardian(s) of my minor child. I ask the Court to issue Letters of Guardianship to the Petitioner(s).

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: _____
Address/PO 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: _____ Place: _____
City State

Signature of Parent

Printed Name

NAME

MAILING ADDRESS

CITY / STATE / ZIP CODE

PHONE NUMBER

EMAIL

Petitioner appearing without a lawyer.

MONTANA _____ JUDICIAL DISTRICT COURT _____ COUNTY

In the Matter of the Guardianship of

(Child's name or initials)

Petitioner

Co-Petitioner
(if applicable)

Cause No.: _____

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

I am the minor child named in this guardianship case. I hereby state 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(s) to be my guardian(s).

3. I believe the Petitioner(s) is/are capable of caring for me, and it is in my best interests for the Petitioner(s) to be my guardian(s).

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.

Date: _____ Place: _____
City State

Signature of Child

Printed Name

MONTANA _____ JUDICIAL DISTRICT COURT _____ COUNTY

In the Matter of the Guardianship of _____ <i>(Child's name or initials)</i> _____ Petitioner _____ Co-Petitioner <i>(if applicable)</i>	Cause No.: _____ Order Setting Hearing
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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. Petitioner(s) 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 years old or older, at child's address in petition)*

The person who has had care and custody of the child for the 60 days before the Petition was filed *(if not Petitioner)*:

Name: _____

Address: _____

The child's biological mother *(only if still living)*:

Name: _____

Address: _____

The child's biological father *(only if still living)*:

Name: _____

Address: _____

AND / OR

B. Petitioner(s) 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 newspaper is published once per week, the notice must be published for 3 weeks in a row. If the newspaper is published more than once per 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

MONTANA ____ JUDICIAL DISTRICT COURT _____ COUNTY

In the Matter of the Guardianship of

(Child's name or initials)

(if required to publish, add all names of children who
are siblings with same biological parents, as well as the
correlating cause numbers)

Petitioner

Co-Petitioner
(if applicable)

Cause No.: _____

**Notice of Hearing on
Guardianship of Minor Child**

THE STATE OF MONTANA SENDS GREETINGS TO: _____

(insert names of all parties who must receive notice)

NOTICE IS GIVEN to the birth parents of the minor child(ren) above referenced and all other interested persons that Petitioner(s) has/have filed a petition with the Clerk of this Court to become the guardian(s) of the minor child(ren).

The hearing on the Petition will be held at _____

(court and address) in _____ County

on the following date and time:

Date: _____ at _____ a.m. / p.m.
(mm/dd/yyyy) (time)

**Your failure to attend the hearing may result in the relief requested by the
Petitioner(s) being granted.**

Date: _____

By: _____
Deputy Clerk/Clerk of District Court

GM-600 NOTICE OF HEARING ON GUARDIANSHIP OF MINOR CHILD

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and Montana Legal Services Association

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Last updated 04/2023

NAME

MAILING ADDRESS

CITY / STATE / ZIP CODE

PHONE NUMBER

EMAIL

Petitioner appearing without a lawyer.

MONTANA _____ JUDICIAL DISTRICT COURT _____ COUNTY

In the Matter of the Guardianship of

(Child's name or initials)

Petitioner

Co-Petitioner
(if applicable)

Cause No.: _____

Certificate of Service

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

1. Child (only if the child is 14 years old or older)

On _____ (date), I:

GM-700 CERTIFICATE OF SERVICE

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- mailed a copy of the Notice and Petition by ordinary first-class mail;
- mailed a copy of the Notice and Petition by certified mail; or
- delivered a copy of the Notice and Petition by hand-delivery

to: _____ (*Child's name or initials*)
at: _____
_____ (*address*).

OR

- The child is under 14 years old.

2. 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;
- mailed a copy of the Notice and Petition by certified mail; or
- delivered a copy of the Notice and Petition by hand-delivery

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. Biological Mother

On _____ (date), I:

- mailed a copy of the Notice and Petition by ordinary first-class mail;
- mailed a copy of the Notice and Petition by certified mail; or
- delivered a copy of the Notice and Petition by hand-delivery

to: _____ (name)

at: _____
_____ (address).

OR

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

OR

- The biological mother is deceased.

4. Biological Father

On _____ (date), I:

- mailed a copy of the Notice and Petition by ordinary first-class mail;
- mailed a copy of the Notice and Petition by certified mail; or
- delivered a copy of the Notice and Petition by hand-delivery

to: _____ (name)

at: _____
_____ (address).

OR

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

OR

The biological father is deceased.

5. Other person (if ordered by the court): Name: _____

On _____ (date), I:

- mailed a copy of the Notice and Petition by ordinary first-class mail;
- mailed a copy of the Notice and Petition by certified mail; or
- delivered a copy of the Notice and Petition by hand-delivery

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: _____

Place: _____
City *State*

Signature

Printed Name

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MONTANA _____ JUDICIAL DISTRICT COURT _____ COUNTY

In the Matter of the Guardianship of _____ <i>(Child's name or initials)</i> _____ Petitioner _____ Co-Petitioner <i>(if applicable)</i>	Cause 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

Name: _____
Age: _____
Address: _____
City: _____ State: _____ County: _____
Relation to the Child: _____

Information about Co-Petitioner (if applicable)

Name: _____
Age: _____
Address: _____
City: _____ State: _____ County: _____
Relation to the Child: _____

2. Information about Minor Child

Name (*Child's name or initials*): _____

Age: _____

Address: _____

City: _____ State: _____ County: _____

The child lives with / does not live with the Petitioner(s).

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(s) to be their guardian(s).

3. Information about Child's Biological Parents

Biological Mother's Name: _____

Age (or deceased): _____

Address: _____

City: _____ State: _____ County: _____

The child's biological 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(s).

Biological Father's Name: _____

Age (or deceased): _____

Address: _____

City: _____ State: _____ County: _____

The child's biological 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(s).

4. 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 years old or older*)
- The person who has had care and custody of the child for the 60 days before the Petition was filed (*if not the Petitioner(s)*):

Name: _____

Address: _____

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

Name: _____

Address: _____

The child's biological father (*if still living*):
Name: _____
Address: _____

5. 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*):

6. 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. See § 72-5-221, MCA.

2. The Petitioner(s) is/are capable and qualified to serve as the guardian(s) of the minor child.

3. It is in the child's best interests for the Petitioner(s) to be appointed guardian(s) of the minor child. See § 72-5-223, MCA.

Order

This Court orders that:

1. Guardian Appointment

The Petitioner(s) is/are appointed as the guardian(s) of the minor child.

In the event the Petitioner(s) is/are unable to act as guardian(s), 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(s). 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 biological mother:
Name: _____
Address: _____

The child's biological father:
Name: _____
Address: _____

Date: _____

District Court Judge

MONTANA _____ JUDICIAL DISTRICT COURT _____ COUNTY

In the Matter of the Guardianship of _____ <i>(Child's name or initials)</i> _____ Petitioner _____ Co-Petitioner <i>(if applicable)</i>	Cause 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(s)) as evidence of the appointment, qualifications, and authorities of guardianship.

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

Clerk of Court

By: _____
Deputy Clerk

(COURT SEAL)

GM-900 LETTERS OF GUARDIANSHIP

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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.

Signature: _____
Petitioner

Date: _____ Printed Name: _____

State of Montana)
County of _____) ss.

Signed and sworn to (or affirmed) before me this _____ day of _____
20____ by _____ (name of petitioner).

Notary Public for the State of Montana (Signature)

[PLACE STAMP ABOVE]

Signature: _____
Co-Petitioner

Date: _____ Printed Name: _____

State of Montana)
County of _____) ss.

Signed and sworn to (or affirmed) before me this _____ day of _____
20____ by _____ (name of co-petitioner).

Notary Public for the State of Montana (Signature)

[PLACE STAMP ABOVE]

GM-900 LETTERS OF GUARDIANSHIP

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