

Instructions for Terminating Guardianship

These instructions and forms are for you to use to represent yourself in terminating a guardianship of a minor. 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.

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.

Information about the Forms:

- There are 5 forms to fill out and file with the Clerk of District Court (clerk) to complete the process of terminating a guardianship. You will file the forms in the court of the county where the child resides. **You must fill out a separate set of these 5 forms for each minor child.**

Documents included in Termination Packet:

1. Motion to Terminate Guardianship with Certificate of Service (GMT-200)
2. Affidavit in Support of Motion to Terminate Guardianship (GMT-300)
3. Order Terminating Guardianship (GMT-400)
4. Motion for Contested/Uncontested Hearing** with Certificate of Service (GMT-500)
5. Order Setting Hearing** (GMT-600)

**Your failure to file the Motion for Contested/Uncontested Hearing, along with the Order Setting Hearing, can leave your file inactive.

- 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 motion. 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 GMT number.

GMT-100 INSTRUCTIONS FOR TERMINATING GUARDIANSHIP

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Sample court caption:

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

In the Matter of the Guardianship of <u>Mary Smith</u> <i>(Child's name or initials)</i> <u>John Adam Doe</u> Petitioner <u>Jane Marie Doe</u> Co-Petitioner <i>(if applicable)</i>	Cause No.: <u>DG-23-001</u> Order Setting Hearing
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- As of March 2023, there is a statutory filing fee of \$100.00 for filing a Motion to Terminate Guardianship 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 motion 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 motion) online (courts.mt.gov/forms/) or from your local clerk or Self-Help Law Center. File the fee waiver with your motion.
- 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.

Overview of Process:

STEP 1: File Motion to Terminate, Affidavit, and Proposed Order

- Fill out three forms: (1) the Motion to Terminate Guardianship, (2) the Affidavit in Support of Motion to Terminate Guardianship, and (3) the Order Terminating Guardianship. Make copies of the motion and affidavit for yourself and for each interested party (including the child if they are over the age of 14).
- Take the original forms and all copies with you to the clerk. The clerk can file your original documents and stamp your copies.

- After filing, you must mail or hand-deliver copies of the motion and affidavit to all interested parties as indicated in your Certificate of Service. You are **not** providing a copy of the Order Terminating Guardianship to any of the other parties—that is a document the judge will sign at the hearing to either grant or deny your Motion to Terminate Guardianship.

STEP 2: File Motion for Hearing and Order Setting Hearing

- **WAIT 17 DAYS** after filing your motion, affidavit, and order. Day 1 is one day after you filed your original motion and affidavit.
- If none of the other parties file a response objecting to your Motion to Terminate, you will file the Order Setting Hearing and the Motion for Contested/Uncontested Hearing, checking the box for a Motion for “**Uncontested** Hearing.”
- If a response **is** filed, you will need to file the Order Setting Hearing and the Motion for Contested/Uncontested Hearing, checking the box for a Motion for “**Contested** Hearing.”
- Again, you will be mailing or hand-delivering a copy of the Motion for Contested/Uncontested Hearing to all parties involved.
 - In Flathead, Missoula, and Yellowstone Counties, you do **not** need to provide the clerk copies of the Order Setting Hearing or self-addressed stamped envelopes. For all other counties, if you have questions about providing copies of the Order Setting Hearing or self-addressed stamped envelopes, check with your local clerk or Self-Help Law Center.

STEP 3: 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 child with you to the hearing if the child is in your care. At the hearing, the judge may ask the child some questions.

- Be prepared to tell the judge why you think terminating the child’s guardianship would be in the child’s best interests. Bring any important papers, photos, and any witnesses 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.

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.

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 termination of a guardianship is written: § 72-5-233, 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 terminate a guardianship, you are the petitioner. A petitioner pro se is a petitioner who is appearing in court without a lawyer (self-represented).

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.

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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.: _____

**Motion to Terminate
Guardianship**

I/We, _____ *(name(s))*,

the Petitioner(s) above-named, request the Court to enter an Order that terminates the above-referenced guardianship.

An Order Terminating Guardianship is requested because _____

GMT-200 MOTION TO TERMINATE GUARDIANSHIP

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Certificate of Service

I hereby certify that a true and correct copy of the foregoing Motion to Terminate Guardianship, along with any referenced Affidavit to this Motion, were served upon all parties on the ____ day of _____, 20____, by the method and at the address as indicated below:

Name U.S. Mail (first class postage prepaid)

Address Hand Delivery

City *State* *Zip Code*

(Petitioner – strike any unnecessary address blocks)

Name U.S. Mail (first class postage prepaid)

Address Hand Delivery

City *State* *Zip Code*

Name U.S. Mail (first class postage prepaid)

Address Hand Delivery

City *State* *Zip Code*

Signature of 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.: _____

**Affidavit in Support of
Motion to Terminate
Guardianship**

I, _____ *(name)*, the Petitioner above-
named, hereby state as follows: _____

GMT-300 AFFIDAVIT IN SUPPORT OF MOTION TO TERMINATE GUARDIANSHIP

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MONTANA _____ JUDICIAL DISTRICT COURT _____ COUNTY

<p>In the Matter of the Guardianship of</p> <p>_____</p> <p style="text-align: center;"><i>(Child's name or initials)</i></p> <p>_____</p> <p style="text-align: right;">Petitioner</p> <p>_____</p> <p style="text-align: right;">Co-Petitioner <i>(if applicable)</i></p>	<p>Cause No.: _____</p> <p style="text-align: center;">Order Terminating Guardianship</p>
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Having considered the Petitioner's Motion for Termination of Guardianship and any Response and Reply filed, and this matter coming on for hearing this _____ day of _____, 20_____, NOW THEREFORE, for good cause, the Court hereby Orders: _____

Dated this _____ day of _____, 20_____.

District Court Judge

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.: _____

Motion for

Contested Hearing

Uncontested Hearing

COMES NOW the Petitioner(s), _____
(name(s)), and respectfully requests the Court to schedule a hearing in the above-entitled cause on the Motion to Terminate Guardianship.

Dated this _____ day of _____, 20____.
(date) (month) (year)

Signature of Petitioner

GMT-500 MOTION FOR CONTESTED/UNCONTESTED HEARING

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Motion for Hearing was served upon the following parties, on the _____ day of _____, 20_____, by the method and at the address indicated below:

Name U.S. Mail (first class postage prepaid)

Address Hand Delivery

City *State* *Zip Code*

(Petitioner – strike any unnecessary address blocks)

Name U.S. Mail (first class postage prepaid)

Address Hand Delivery

City *State* *Zip Code*

Name U.S. Mail (first class postage prepaid)

Address Hand Delivery

City *State* *Zip Code*

Signature of Petitioner

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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IT IS HEREBY ORDERED that a hearing in this matter is scheduled for the
_____ day of _____, 20____, at _____ a.m. / p.m.

Dated this _____ day of _____, 20____.

District Court Judge