

Petition for Guardianship of Minor

*Disclaimer-the following information is intended solely as a guideline for those petitioning the Probate Court for temporary or permanent guardianship of a minor. It is not meant to be legal advice, nor is it legal advice in any fashion. The following information does not in any way remove from the petitioner the responsibility to research and comply with all applicable statutory requirements for the filing and processing of a minor guardianship action. For those petitioners who have specific legal questions concerning the filing of a minor guardianship and legal requirements relating to the same, you may wish to consult with an attorney.

1. Most forms for commencing a minor guardianship are state mandated and can be purchased through the Dane County Legal Resource Center for a small fee or obtained on-line, at no cost, by visiting www.wicourts.gov. Once at the site, select "Forms", then "Circuit Court Forms", then "Guardianship Forms", then "Minors".
2. Many of the laws relevant to minor guardianships can be found in **Chapter 54** of the Wisconsin Statutes. You can view this chapter on-line at www.legis.state.wi.us/rsb/index.html, or you can request to view this and other relevant chapters at the Dane County Legal Resource Center.
3. A minor guardianship action is commenced by the filing of a Petition for guardianship of minor. The petition should be completed by the petitioner or attorney on behalf of the petitioner; then signed by the petitioner in the presence of a notary. File the completed petition with the Office of the Register in Probate, Room 1005 of the Dane County Courthouse at 215 South Hamilton Street in Madison, Wisconsin.
4. Complete the county specific form entitled, "Acknowledgment of Guardianship Limitations and Procedure" (a county specific form) and file with your guardianship petition. This form can also be obtained in the Dane County Legal Resource Center or through the Register in Probate's Office.
5. Complete the form (proposed guardian to complete) entitled, "Statement of Acts by Proposed Guardian and Consent to Serve as Guardian". Once completed, the guardians should sign the same in the presence of a notary. This form can be filed with the petition, but need not be at that time. However, pursuant to §54.15(8) (a), at least 96 hours before the hearing under s. 54.44, the proposed guardian shall submit to the court this document.
6. Upon approval for filing by the Probate Office of the petition for minor guardianship, an "Order and Notice of Hearing Petition for Guardianship of Minor" will be completed by Probate Staff, which will indicate the date for when the petition for minor guardianship will be heard. A copy will be provided to the petitioner. **The petitioner is responsible for serving a copy of this order together with a copy of the petition upon the minor and all interested persons as required by law. Failure of the petitioner to provide the required notice to all interested persons shall deprive the Probate Court of jurisdiction unless receipt of notice is waived by the interested person or service on any interested person is specifically waived by the court. The petitioner should supply the Register in Probate's Office with the original and sufficient copies of the petition at the time of filing so authenticated (filed) copies can be supplied back to the petitioner for execution of service as required by statute on all interested parties together with the notice. Once service is effectuated, all necessary Affidavits of service should be filed with the Register in Probate's Office. Use state mandated form GN-3120, "Affidavit of Service (Guardianship, Protective Placement or Protective Services)".**
7. Prior to the hearing, the court shall appoint a guardian ad litem for the minor ward. The guardian ad litem shall act as an advocate for the best interests of the proposed minor ward. The guardian ad litem functions independently, similar to an attorney for a party to the action. He/She can consider, but is not bound to consider, the wishes of the proposed minor ward or the positions of others as to the best interests of the proposed minor ward. The guardian ad litem will interview the proposed minor ward, the proposed guardian and any other person seeking appointment as guardian.

STATE OF WISCONSIN, CIRCUIT COURT, DANE COUNTY

For Official Use

IN THE MATTER OF

Amended

Petition for

- Temporary Guardianship
- Permanent Guardianship of Minor

Case No. _____

Date of Birth _____

FOR TEMPORARY AND/OR PERMANENT GUARDIANSHIPS (Complete #1 through #14)

UNDER OATH, I STATE THAT:

1. I am interested as:

- a relative _____.
- a public official. My authority to act as petitioner is: _____.
- other: _____.

2. This petition is filed in:

- the county of residence of the minor.
- the county in which the minor is physically present.
- Other: _____.

3. The residence of the minor is in _____ County, State of _____, and post-office address is: _____.

4. The minor's date of birth is: _____.

5. The name and post-office address of the person or institution, if any, that has care and custody of the minor or the facility, if any, that is providing care to the minor is:

Name: _____ Phone Number: _____
Post-office Address: _____

6. I have exercised due diligence to locate all interested parties. The names and post office addresses of all interested parties and all others entitled to notice are as follows: See attached

<u>NAME</u>	<u>RELATIONSHIP</u>	<u>POST-OFFICE ADDRESS</u>

7. The minor, if married, does does not have children who are not of the current marriage.

8. This petition is made in the best interests of the minor. The minor needs a guardian because: _____

9. I am not aware aware of a guardianship or other related proceeding or ordered proceeding involving the minor in another state or county. The details of the guardianship, or other related proceedings of which I am aware are as follows: See attached

guardian(s) appointed in Wisconsin: (Name and county where appointed) _____

guardian(s) appointed out-of-state: (Name and state where appointed) _____

10. The following person is nominated as guardian:

See attached

Type of Guardian		Name & Address	Phone
Guardian of the	Person		
Guardian of the	Estate		
Temporary Guardian of the	Person		
Temporary Guardian of the	Estate		
Standby Guardian of the	Person		
Standby Guardian of the	Estate		

One or both of the parents of the minor have not been nominated as guardian because: _____

11. A sworn and notarized Statement of Acts by Proposed Guardian and Consent to Serve:

- accompanies this petition.
- will be filed at least 96 hours before the hearing.
- will be provided, if required by the court for temporary guardianship.

12. A. The approximate value of minor's property is:

See attached

General	Amounts	General Description	Amounts
Cash/Bank	\$	Other Liquid Assets:	\$
Real estate:	\$	Other Assets:	\$

B. Assets of minor previously derived from or benefits of minor now due and payable from U.S. Department of Veterans Affairs are:

none _____ See attached

C. The minor is receiving public benefits, including medical assistance, SSI, SSDI or long term community options program benefits: No Yes, type and amount: _____

D. Any other claim, income, compensation, pension, insurance or allowance to which the minor may be entitled is none. as follows: See attached.

General	Amounts (monthly)	General Description	Amounts (monthly)
Social security	\$	Investment Income	\$
Child Support	\$	Other	\$
Disability	\$	Other	\$

13. I request the court order payment of child support.

See attached

FOR PERMANENT GUARDIANSHIP (Complete #14)

14. GUARDIAN OF PERSON AND EXTENT OF POWERS

I request the court to appoint a permanent guardian of the person of the minor to exercise the following specific powers: **If a power is to be affected, the box to the far left must be marked. Marking only full or limited has no effect.**

ab. Except as otherwise limited by Wisconsin Statute 54.25(2)(d)2.ab., the power to give an informed consent to the voluntary receipt by the guardian's ward of a medical examination, medication, including any appropriate psychotropic medication, and medical treatment that is in the ward's best interest, if the guardian has first made a good-faith attempt to discuss with the ward the voluntary receipt of the examination, medication, or treatment and if the ward does not protest.

Choose (1) or (2):

(1) Minor retains limited capacity and the power to: _____
Guardian of the person to exercise power not retained by minor.

(2) Minor lacks evaluative capacity in full. Guardian of the person to exercise full power.

ac. Except as otherwise limited by Wisconsin Statute 54.25(2)(d)2.ac., the power to give informed consent, if in the ward's best interests, to the involuntary administration of a medical examination, medication other than psychotropic medication, and medical treatment that is in the ward's best interest.

Choose (1) or (2):

- (1) Minor retains limited capacity and the power to: _____
Guardian of the person to exercise power not retained by minor.
- (2) Minor lacks evaluative capacity in full. Guardian of the person to exercise full power.
- b. The power to authorize minor's participation in an accredited or certified research project if the research project might help the minor, or others if minimal risk of harm.

Choose (1) or (2):

- (1) Minor retains limited capacity and the power to: _____
Guardian of the person to exercise power not retained by minor.
- (2) Minor lacks evaluative capacity in full. Guardian of the person to exercise full power.
- c. The power to authorize minor's participation in research that might not help the minor but might help others if greater than minimal risk of harm to the minor but evidence indicates minor would have elected to participate.

Choose (1) or (2):

- (1) Minor retains limited capacity and the power to: _____
Guardian of the person to exercise power not retained by minor.
- (2) Minor lacks evaluative capacity in full. Guardian of the person to exercise full power.
- d. The power to consent to experimental treatment in the minor's best interests.

Choose (1) or (2):

- (1) Minor retains limited capacity and the power to: _____
Guardian of the person to exercise power not retained by minor.
- (2) Minor lacks evaluative capacity in full. Guardian of the person to exercise full power.
- e. The power to give informed consent to receipt by minor of social and supported living services.

Choose (1) or (2):

- (1) Minor retains limited capacity and the power to: _____
Guardian of the person to exercise power not retained by minor.
- (2) Minor lacks evaluative capacity in full. Guardian of the person to exercise full power.
- f. The power to give informed consent to release of confidential records other than court, treatment, and patient health care records and redisclosure as appropriate.

Choose (1) or (2):

- (1) Minor retains limited capacity and the power to: _____
Guardian of the person to exercise power not retained by minor.
- (2) Minor lacks evaluative capacity in full. Guardian of the person to exercise full power.
- g. The power to make decisions related to mobility and travel.

Choose (1) or (2):

- (1) Minor retains limited capacity and the power to: _____
Guardian of the person to exercise power not retained by minor.
- (2) Minor lacks evaluative capacity in full. Guardian of the person to exercise full power.
- h. [Intentionally omitted to correspond with statute.]

i. The power to choose providers of medical, social, and supported living services.

Choose (1) or (2):

- (1) Minor retains limited capacity and the power to: _____
Guardian of the person to exercise power not retained by minor.
- (2) Minor lacks evaluative capacity in full. Guardian of the person to exercise full power.
- j. The power to make decisions regarding educational and vocational placement and support services or employment.

Choose (1) or (2):

- (1) Minor retains limited capacity and the power to: _____
Guardian of the person to exercise power not retained by minor.
- (2) Minor lacks evaluative capacity in full. Guardian of the person to exercise full power.
- k. The power to make decisions regarding initiating a petition for termination of marriage.

Choose (1) or (2):

- (1) Minor retains limited capacity and the power to: _____
Guardian of the person to exercise power not retained by minor.
- (2) Minor lacks evaluative capacity in full. Guardian of the person to exercise full power.
- l. The power to receive all notices on behalf of minor.

Choose (1) or (2):

- (1) Minor retains limited capacity and the power to: _____
Guardian of the person to exercise power not retained by minor.
- (2) Minor lacks evaluative capacity in full. Guardian of the person to exercise full power.
- m. The power to act in all proceedings as an advocate of the minor, except the power to enter into a contract that binds the minor or the minor's property or to represent the minor in any legal proceedings pertaining to the property, unless the guardian of the person is also the guardian of the estate.
Choose (1) or (2):
 - (1) Minor retains limited capacity and the power to: _____
Guardian of the person to exercise power not retained by minor.
 - (2) Minor lacks evaluative capacity in full. Guardian of the person to exercise full power.
- n. The power to apply for protective placement or for commitment.
Choose (1) or (2):
 - (1) Minor retains limited capacity and the power to: _____
Guardian of the person to exercise power not retained by minor.
 - (2) Minor lacks evaluative capacity in full. Guardian of the person to exercise full power.
- o. The power to have care, custody, and control of the minor.
Choose (1) or (2):
 - (1) Minor retains limited capacity and the power to: _____
Guardian of the person to exercise power not retained by minor.
 - (2) Minor lacks evaluative capacity in full. Guardian of the person to exercise full power.
- p. other specific powers: _____

See attached

15. GUARDIAN OF THE ESTATE

I request the court:

- A. Appoint and authorize a permanent guardian of the estate of the minor to perform duties and exercise powers as follows:
Guardian of the estate is to perform the duties of the guardian of the estate under §54.19, and exercise the powers that do not require court approval under §54.20 (3), except as follows:

- B. Authorize the guardian of the estate to perform the following **additional powers** (other than to make gifts) that require court approval under §54.20(2): _____
- C. Direct the guardian of the estate deposit the minor's funds of \$100,000 or less in an insured account of a bank, credit union, savings bank or savings and loan association in the name of the guardian and the ward and payable only upon further order of the court and waive bond for the guardian of the estate of the minor.

See attached

16. ALTERNATIVE TO GUARDIANSHIP OF ESTATE FOR SMALL ESTATES

I request the court dispense with the appointment of a guardian of the estate and transfer the minor's funds of \$50,000 or less under one of the alternatives for small estates under §54.12(1), WI Statutes, as follows: _____

See attached

FOR TEMPORARY GUARDIANSHIPS (Complete #17 through #21):

17. There has been no temporary guardianship of the minor in effect **within the last 90 days**.

18. The minor's particular situation, including the needs of the minor's dependents, if any, requires immediate appointment of a **temporary** guardian for the following specific reasons:

See attached

19. I petition the court for the appointment of a temporary guardian with authority limited to those acts that are reasonably related to the reasons for appointment. The authority requested for the temporary guardian is as follows: _____

See attached

20. I request that a hearing be held **within 48 hours**. Good cause exists to support this request for the following reasons: _____

See attached

21. A petition for appointment of a permanent guardian of the person or estate is **NOT** filed with this request because: _____

See attached

22. Additional requests: _____

See attached

I REQUEST THAT THE COURT:

1. Order a hearing on this petition.
2. Make appropriate findings and appointments as requested above.
3. Award appropriate fees and costs.

Subscribed and sworn to before me

on _____

Notary Public/Court Official

My commission expires: _____

Signature of Petitioner

Name Printed or Typed

Address

Name of Attorney	
Address	
Telephone Number	Bar Number

IN THE MATTER OF THE
GUARDIANSHIP OF

**Acknowledgment of
Guardianship Limitations and
Procedure**

Case # JG

I understand the following limitations and procedures concerning this juvenile guardianship action.

 1. If a guardian is appointed, the guardian will have equal decision making authority with the child's parents.

 2. Granting the guardianship does not terminate any parental rights of the child's parent.

 3. If a parent initially objects to the guardianship, in all likelihood the petition for guardianship will be dismissed unless the petitioner can prove that the parents are unfit or compelling circumstances exist.

 4. If the guardianship is granted based upon an agreement of the parents and if some time in the future one or both of the parents want to terminate the guardianship, in all likelihood the guardianship will be terminated unless the petitioner can prove that the parents are unfit or compelling circumstances exist.

 5. This juvenile guardianship action does not address legal custody or physical placement. If a guardian is appointed and wishes to have a court order awarding legal custody and/or physical placement to him or her, a petition must be filed in the court action where the last court order dealing with legal custody and physical placement was entered (family court or CHIPS proceeding).

 6. If a guardian is appointed, a petition must be filed with the court if a parent or guardian wishes to terminate the guardianship before the child's 18th birthday. The court may require a hearing and may appoint a guardian ad litem prior to the termination of the guardianship.

Date: _____

Signature

Name printed or typed

STATE OF WISCONSIN, CIRCUIT COURT, DANE COUNTY

For Official Use

Amended

IN THE MATTER OF

**Statement of Acts by
Proposed Guardian and
Consent to Serve as
Guardian**

Case No. _____

Date of Birth _____

Submit this statement to the court at least 96 hours before the court hearing.

UNDER OATH, I STATE THAT THE FOLLOWING IS TRUE:

- I am currently charged with or have been convicted of a crime (misdemeanor or felony):
 No Yes If Yes, describe circumstances: _____
- I have filed for or received protection under the federal bankruptcy laws:
 No Yes If Yes, describe circumstances: _____
- Any license, certificate, permit, or registration that I am required to have under chs. 440 to 480, Wisconsin Statutes or by the laws of another state for the practice of a profession or occupation has been suspended or revoked:
 No Yes If Yes, describe circumstances: _____
- I am listed in the Caregiver Misconduct Registry of the Department of Health Services under §146.40 (4g)(a)(2), Wisconsin Statutes.
 No Yes If Yes, describe circumstances: _____
- I am currently a guardian of the person of 5 or more adult wards who are unrelated to me:
 No Yes If Yes, describe circumstances: _____
- I am nominated to serve as: guardian standby guardian successor guardian of the person estate of the above named individual and consent to serve as guardian and will act in the best interest of this individual.
- If appointed as **guardian of the person**, I will file the Annual Report on the Condition of the Ward.
- If appointed as **guardian of estate**, I will file the Guardianship Inventory **within 60 days of appointment**, and the Account of Guardian or Conservator annually and/or as otherwise required.
- I will exercise all powers and perform all duties as guardian as required by law.

Subscribed and sworn to before me
on _____

Signature of Proposed Guardian

Notary Public, State of Wisconsin

Name Printed or Typed

My commission expires: _____

Address

Phone Number

Name of Attorney	
Address	
Telephone Number	Bar Number

STATE OF WISCONSIN, CIRCUIT COURT, DANE COUNTY

For Official Use

IN THE MATTER OF

Amended

**Affidavit of Service
(Guardianship,
Conservatorship,
Protective Placement or
Protective Services)**

Case No. _____

I, _____ of _____,

Name

City

State of _____, being sworn, state that on (date) _____, I provided copies of the following documents:
Documents provided:

- the original of which is on file
- a copy of which is attached

to the following named persons at the address/facsimile number listed:

See attached

<u>NAME</u>	<u>ADDRESS</u>	<u>TYPE OF SERVICE***</u>

*** TYPE OF SERVICE: Refer to Wisconsin Statutes for proper manner of service.

Type of Service:

- Personal Service
- Mail
- Certified mail return receipt requested
- FAX with transmittal receipt

Subscribed and sworn to before me

on _____

Signature

Notary Public, State of Wisconsin

Name Printed or Typed

My commission expires: _____

Address

Name of Attorney

Address

Telephone Number