
WEST VIRGINIA INSTRUCTIONS FOR MINOR GUARDIANSHIP

IMPORTANT INFORMATION

YOUR RIGHTS MAY BE BETTER PROTECTED WITH THE HELP ON AN ATTORNEY

You can be appointed as a guardian for a minor if a minor needs someone besides their parents to provide care for them. You can also be appointed as a guardian if a minor owns valuable property that an adult should manage. **Do not file a minor guardianship case if the issue is custody between parents.**

To be appointed as a guardian, you must complete a petition. If you will only provide care for a minor, then the "Petition for Appointment of Guardian for the Minor(s)" should be completed. If you must manage a minor's valuable property, then the "Petition for Appointment of Guardian for the Minor(s) and/or for the Estate of the Minor(s)" should be completed. The form should be filled out as completely and neatly as possible. You will also need to complete a Civil Case Information Sheet (CCIS).

Unless the case involves abuse and neglect of the minor(s), the case may be filed in family or circuit court. If the case involves abuse and neglect of the minors or the minors were ever subject to an abuse and neglect case, the case must be addressed in circuit court. In these circumstances, you should select "circuit court" at the top of the petition form.

If a parent wants you to serve as guardian, the parent should complete a "Waiver of Guardian Appointment." If a minor, at least age 14, wants you to serve as a guardian, the minor should complete a "Nomination for Appointment of Guardian."

Once the original forms are completed, they must be filed in the in the circuit clerk's office in the county where the minor has lived for the last six months. There are some exceptions that can be indicated on the petition. You should keep a copy of all forms and submit copies to the clerk for anyone who must be served. A filing fee and fees for service of the petition will be collected unless you qualify for a fee waiver.

These fees will be collected unless you qualify for a fee waiver:	\$200.00
Filing fee for minor guardianship:	\$ 30.00
Service for each copy of the petition by the Sheriff:	

In some counties, you may need to prepare a notice of hearing. You should ask the circuit clerk whether it is your responsibility. If so, you should serve the notice of hearing, along with the petition and related documents.

All Documents
MUST BE NOTARIZED
Prior to Filing

When the petition and related documents are filed, **you will be responsible for serving persons who will be affected by the guardianship.** The people who must be served include:

- a) any parent who is not a petitioner and whose parental rights have not been terminated;
- b) any other person who has custodial rights to any minor named in the petition; and
- c) any minor who is 14 years of age or more. Other than a parent, a person has custodial rights to a minor if a court has placed custody of a minor with him or her.

To arrange for service of the petition, the summons, and the notice of hearing, you need to select the type of service: personal service by the sheriff's department, personal service by a private process server, or certified mail. You should include the type of service on the CCIS. Because minor guardianship cases must be addressed quickly, service by certified mail is not a good option for service. Another option can include the completion of a form, "Acceptance of Service," that indicates that an individual is voluntarily accepting service. For example, a parent who agrees that the petitioner should be the guardian may be willing to complete this form. The clerk's office should have a copy of the form for "Acceptance of Service."

The court will conduct an initial hearing within 10 business days of the filing of the petition. The court may conduct additional hearings if all issues are not resolved at the first hearing.

If you are appointed as a guardian for a minor and/or the estate of a minor, you may be required to post a bond. The court will establish the type of bond.

IN THE _____ COURT OF _____ COUNTY, WEST VIRGINIA

IN THE MATTER OF:

Civil Action No.

_____-_____-_____

Minor(s) Under the Age of 18 Years

**PETITION FOR APPOINTMENT OF GUARDIAN FOR THE MINOR(S) AND/OR
FOR THE ESTATE OF THE MINOR(S)**

I/We, _____, the Petitioner(s), pursuant to
West Virginia Code § 44-10-3, hereby request that the Court appoint a guardian for the following
minor(s):

<i>Name</i>	<i>Age</i>	<i>Date of Birth</i>
_____	_____	____/____/____
_____	_____	____/____/____
_____	_____	____/____/____
_____	_____	____/____/____
_____	_____	____/____/____

Type of Guardianship

1. Petitioner(s) is/are requesting the following type of guardianship:

☐ *over the person (custody) the minor(s). This type of guardianship provides the guardian authority over the person of the minor, including decisions that a parent would ordinarily make and requires that the guardian provide for the physical and emotional well-being of the minor(s).*

and/or

☐ *over the estate of the minor(s). This type of guardianship provides the guardian authority over the assets owned by the minor. If the minor does not own any assets (not including personal effects), then guardianship over the estate is not needed.*

Need for Proposed Guardianship

2. The proposed guardianship is needed for the following reason(s): *(Attach additional pages if needed)*

Minor's Information

3. Each minor(s) named above is:

☐ current resident of this county and state for the past six months; or there

☐ are extraordinary circumstances that justify an earlier filing. These circumstances include: _____

☐ a nonresident of the state but has an estate (real property or other assets) in this county.

4. The minor(s) currently live(s) with _____
whose address is _____
and telephone number(s) is/are _____.

5. During the last five years, the minor(s) has/have lived at the following addresses:

Minor's Name	Address and Adult Members of Household	Dates of Residence

Parents' Information

6. The parents of the minor(s) is/are:

<i>Name</i>	<i>Last Known Address</i>
Father: _____	_____
Deceased ☐ Yes ☐ No	_____
	Telephone No.: _____
Mother: _____	_____
Deceased ☐ Yes ☐ No	_____
	Telephone No.: _____

7. Deceased Parents: *If any parent is deceased, please provide the date of death and county and state in which the parent died. If available, please attach a copy of the death certificate.*

Name: _____	
_____/_____/_____	_____
Date of Death	County and State of Death
Name: _____	
_____/_____/_____	_____
Date of Death	County and State of Death

8. Parents whose parental rights have been terminated: *If the parental rights of either parent have been terminated in a child abuse and neglect case, please provide the date of the termination and county and state of the child abuse and neglect case.*

Parent's Name: _____

Date of Termination: ____/____/____, County and State: _____

Parent's Name: _____

Date of Termination: ____/____/____ County and State: _____

9. PRIOR CPS INVESTIGATION: *Complete this section if the parents or the minor(s) have been subject to a CPS investigation.*

(a) The minor(s) and/or their parents have been subject to a CPS investigation(s) that involved the following: _____

(b) The outcome of the investigation was: _____

(c) CPS investigation history occurred in _____ County in the State of _____

10. If custody has previously been determined by a court proceeding, please complete this section.

To the best of my knowledge, the minor(s)'s custody has been determined in the following court proceedings:

Name of Court: _____

Case No.: _____ County and State: _____

Type of Proceeding: _____

Outcome of Proceeding: _____

Information of Proposed Guardian

11. The proposed guardian(s) of the minor(s) is/are: *(Check and complete as appropriate, depending upon whether one guardian is sought over the minor(s) and/or the estate, or different guardians are sought over the minor(s) and the estate).*

Name: _____

Address: _____

Telephone number(s): _____

Date of Birth: ____/____/____

Relationship, if any, to the minor(s): _____

12. The proposed guardian(s) for the estate is:

Name: _____

Address: _____

Telephone number(s): _____

Date of Birth: ____/____/____

13. List the full name(s) of all other adults, besides the proposed guardian(s), who reside in the household of the proposed guardian: _____

14. The proposed guardian(s) is/are competent and fit to serve as guardian(s) of the

☐ minor(s) and/or ☐ estate of the minor(s); and the welfare and best interests of the minor(s)

be properly protected by the appointment of the proposed guardian(s).

15. For the court to determine an appropriate guardian, the Petitioner(s) states the following regarding the proposed guardian(s): _____

- | | |
|--|---|
| (a) ☐ Yes ☐ No | Required to register as a sex offender under West Virginia Code, Chapter 15, Article 12; |
| (b) ☐ Yes ☐ No | Record of any misdemeanor or felony conviction; |
| (c) ☐ Yes ☐ No | Subject to a restraining order or final protective order; |
| (d) ☐ Yes ☐ No | Subject of any substantiated report alleging child abuse, neglect, or sexual abuse made to any child protection agency ("CPS"), other law enforcement agency, or court in any jurisdiction; |
| (e) ☐ Yes ☐ No | Uses any illegal substances, such as drugs, or misuses prescription drugs; |
| (f) ☐ Yes ☐ No | Abuses alcohol; |
| (g) ☐ Yes ☐ No | Another person living in the home is involved in any of the matters stated above. |

If you answered "yes" to any of the questions, please provide additional information:

Estate of Minor(s)

16. The minor(s)'s estate consists of the following assets:

Real property: _____

Personal Property: _____

Other: _____

17. Do the minor(s) receive(s) any ongoing payments such as social security or child support?

☐ Yes ☐ No

18. Does one of the parents receive child support payments for the minor(s)?

☐ Yes ☐ No

If your answer is "Yes," to either question 17 or 18, please list the type of payment, the amount of the payment, and how often it is received.

19. Please provide any additional information that the court should consider:

Temporary Relief

20. For the following reasons:

- ☐ a curator for the estate of the minor(s) is needed; or
- ☐ a temporary guardian is needed to protect the welfare and the best interest of the minor(s) until a guardian is appointed and qualified to act; or
- ☐ temporary relief is not needed.

Because of the following circumstances, temporary relief is needed: _____

WHEREFORE, based upon the foregoing, and upon a hearing to be held in this matter, the undersigned petitioner requests that the Court appoint the above-proposed guardian(s) of the herein-named minor(s) and/or the estate and grant such other relief the Court finds appropriate.

Dated this _____ day of _____, 20_____.

Note: If the Court grants your petition, you may be required to post a bond. The Court will determine the amount and type of the bond.

VERIFICATION

STATE OF WEST VIRGINIA

COUNTY OF _____, to wit:

I, _____, on oath or affirmation, say that I am the petitioner named in this PETITION FOR APPOINTMENT OF GUARDIAN FOR THE MINOR(S) AND FOR THE ESTATE OF THE MINOR(S) and that the facts contained herein are true, except that where they are stated to be on information and belief, I believe them to be true.

PETITIONER

Taken, subscribed, and sworn or affirmed before me this ____ day of _____,
20 ____.

My commission expires: _____.

Notary Public