



# Guardianship of a Minor

**NOTE:** This information applies to *guardianship of a minor child*. These cases are brought by the person seeking to be appointed guardian or by someone else asking the court to appoint a guardian. If custody of the minor was awarded to a non-parent through the juvenile dependency court, this page does not apply. If Department of Family Services (DFS) is involved in your case, you probably have to go to the juvenile court to find out what you can do.

## What is a guardianship?

As a general rule, only a minor's parents have the legal right to make decisions concerning the care and upbringing of their child. Sometimes, however, parents are unable to care for their minor child. In Wyoming, a minor is someone under the age of 18. Maybe one or both parents: have died; have a serious physical or mental illness; are in the military and have to go overseas; are going to jail; have a drug or alcohol abuse problem; have a history of being neglectful or abusive; or cannot take care of the child for some other reason. When this happens, the court will appoint someone other than a parent to be legally responsible for the minor's welfare. This person is called a guardian. A guardianship is the legal process of appointing a guardian. A guardianship is not the same as an adoption. Adoption ends the birth parents' rights and responsibilities, a guardianship does not. Guardianships end when the judge decides a parent can take care of the minor; the minor turns 18 years of age; or the guardian is not acting/able to act in the minor's best interest.

## What are the responsibilities of a guardian?

For the most part, the guardian has the same responsibilities as a parent. This means the guardian has full legal custody and full physical custody of the minor. The guardian is responsible for the minor's care, including the minor's: food, clothing and shelter; safety and protection; physical and emotional growth; medical and dental care; education and any special needs. The guardian also may be responsible for the minor's behavior and any damage the child may cause.

## Who can be a guardian?

In Wyoming, a guardian for a minor can be any adult, as long as the appointment would be in the minor's best's interest. Preference may be given to somebody the parent(s) want or the minor (if over the age of 14) wants. Because biological or adoptive parents have a fundamental right to the care and control of their children, if the parents do not agree to the guardianship, then the court first must decide that the parents are unfit or unable to care for their children before naming someone else as the child's guardian. It is not enough that some other person might be a better caregiver.

## How do I ask the court for a guardianship?

You need to file court a court case asking for guardianship. It is always best to have the help from an attorney anytime you have a legal matter. If you cannot afford an attorney, there are forms available at [www.legalhelp.wy.gov](http://www.legalhelp.wy.gov). There also will be a court hearing. You will have to show proof of why you should be the guardian. The parents can try to show why a guardianship is not needed or that you are the wrong person to be guardian. If there are living parents, you must follow proper procedures to notify them about your request for the guardianship and about the hearing. If you cannot located the parents, first try to find the parents or relatives by asking all family members and friends, looking in the phone books, and doing anything else you think could help you find them. If you still cannot locate the parents, you will have to

publish notice of the petition in a local newspaper. Publishing the legal notice can be expensive so you should ask about the expense.

If the court approves the guardianship, you will also have to file periodic reports with the court for as long as the guardianship lasts. If you cannot afford the filing fee to file for a guardianship, you may ask the court to waive the fee by filing an Affidavit of Indigency at the same time you file the guardianship petition. If the parents do not want to or cannot go to the hearing, they can sign a notarized statement that says they agree with you being the guardian of their child. If they sign the notarized statement, they do not need to attend the hearing. Even if the parents want to attend the hearing, you can still get their consent for you to be the guardian, which will make the process simpler.

The parent(s) can file a motion to modify or terminate the guardianship at any time. If that happens, the court will hold a hearing and review the facts of the case. The court will decide if the guardianship is still needed and in the child's best interest.

## **Can I ask for a guardian for my child if I am dying?**

Yes. This type of guardian is called a standby guardian. If you have legal custody of a child, you can ask the court to appoint a guardian for your child. It gives the sick parent the comfort of knowing his/her child will be safe with the guardian he/she chooses.

## **Letters of Guardianship**

Letters of Guardianship are issued by the Court and given to you from the Court Clerk when the Judge enters the guardianship order. You will need these documents in order to add the minor to your health insurance and car insurance and to get a copy of the minor's birth certificate, social security card and other documents. You also will need these to become the minor's SSI payee, if applicable.

## **What is a conservatorship?**

In some situations, the court will make a separate appointment for someone to make only financial decisions about the minor's income or property. This person is called a conservator. This usually only happens when the child has a large amount of money or income or owns valuable real estate or other property (for example, from an inheritance or a lawsuit). The same person can be both a guardian and a conservator, or a court may appoint different persons or entities (like a bank). However, a conservator is usually not necessary if the child has only inexpensive property, or receives public benefits (like social security benefits or TANF).

## **What is a temporary guardianship for educational, medical care, and dental care purposes?**

This is a special type of guardianship that allows a non-parent relative to access educational, medical and dental services for a minor child that is currently living with him or her. This type of guardianship is more limited (not full legal/physical custody), but can sometimes be easier to get. There are forms to request this type of guardianship at [www.legalhelp.wy.gov](http://www.legalhelp.wy.gov).

