

PETITION FOR TEMPORARY LETTERS OF GUARDIANSHIP OF MINOR

INSTRUCTIONS

I. Specific Instructions

1. This form is to be used for filing a Petition for Temporary Letters of Guardianship of a Minor pursuant to O.C.G.A. § 29-2-5.
2. Notice of the Petition must be given to the “parents” of the Minor. If an objection to the establishment of the temporary guardianship is filed by a parent who is also a “natural guardian,” the Court will dismiss the Petition without a hearing. If a parent who is not a natural guardian objects, a hearing on the matter will be scheduled.

A “parent” is defined as the biological or adoptive father or mother whose parental rights have not been surrendered or terminated. However, in the case of a child born out of wedlock, the Father shall be considered a “parent” only if he has legitimated the Minor.

A father of a child born out of wedlock has legitimated the Minor if he married the Mother after the child’s birth or obtained an order of legitimation from a court of competent jurisdiction.

A “natural guardian” is defined as each parent, unless the parents are divorced. If one parent has sole legal custody, that parent is the sole “natural guardian.” If both parents have joint legal custody, then both parents are the “natural guardians.”

3. Although a mother or father may not be a “legal parent,” the Court may require service on such person.
4. A temporary guardianship will be deemed to be a permanent guardianship for the purposes of obtaining medical insurance coverage for the Minor if the guardian assumes in writing the obligation to support the Minor while the guardianship is in effect to the extent that no other sources of support are available.
5. Unless otherwise permitted by the Probate Court in which the Petition is filed, a separate Petition must be filed for each minor. Contact the Probate Court in which the Petition will be filed for its policy. If the filing of one Petition for more than one minor is permitted by the Probate Court, modify the Petition accordingly.
6. According to Uniform Probate Court Rule 5.6 (A), unless the Court specifically assumes the responsibility, it is the responsibility of the moving party to prepare the proper citation and deliver it properly so it can be served according to law. All pages after the Notice regarding Uniform Probate Court Rule 5.6 (A) are to be completed by the moving party, unless otherwise directed by the Court.

7. O.C.G.A. § 53-11-2 provides that a party to a probate proceeding who is not sui juris must be represented by a guardian provided that the Court may appoint a guardian ad litem or determine that the natural guardian, guardian, conservator or testamentary guardian has no conflict and may serve. Should a guardian ad litem be necessary because a party is not sui juris, use Supplement 1.
8. Use Supplement 2 if the Court determines it is necessary to appoint a special process server.
9. Use Supplement 3 when an additional certificate of service is necessary.
10. Exhibits should be labeled at the bottom of each exhibit as Exhibit “A,” Exhibit “B,” etc. in consecutive order. The corresponding letter of each said exhibit should be inserted into the appropriate place in the form.
11. An oath must be administered by a Probate Judge or Clerk (the oath cannot be administered by a notary public). Use Georgia Probate Court Supplement 4 for the oath. The oath is not included in this form. Georgia Probate Court Standard Form 53, Commission to Administer Oath, can be used if the oath is to be administered by a court outside the State of Georgia.

II. General Instructions

General instructions applicable to all Georgia Probate Court Standard Forms are available in each Probate Court or at www.gaprobate.gov, labeled GPCSF 1.

4.

The Minor's Mother is:

[Full name of Mother] *First* *Middle* *Last*

Street *City* *County* *State* *Zip Code*

- a. Is the Mother deceased? *[Select One]* Yes No
*If yes, attach death certificate as Exhibit “ _____ ”
and skip b-g*
- b. Has the Mother signed a consent for the creation of this temporary guardianship? *[Select One]* Yes No
- c. Is the Mother's address known and listed above? *[Select One]* Yes No
- d. Have the Mother's rights been terminated via Court Order? *[Select One]* Yes No
If yes, attach the Order as Exhibit “ _____ .”
- e. Has the Mother lost custody via Court Order? *[Select One]* Yes No
If yes, attach the Order as Exhibit “ _____ .”
- f. Does the Mother have joint legal custody via Court Order? *[Select One]* Yes No
If yes, attach the Order as Exhibit “ _____ .”
- g. Does the Mother have sole legal custody via Court Order? *[Select One]* Yes No
If yes, attach the Order as Exhibit “ _____ .”
- h. Was the Mother married to the Father of the child during or after the conception of the Child? *[Select One]* Yes No
- i. Was the Mother married to another during the conception, gestation or birth of the Child? *[Select One]* Yes No
If yes, list that man's name below:

_____,
[Full name of Mother's Husband] First Middle Last

Street City County State Zip Code

5.

The Minor's Father is:

_____,
[Full name of Father] First Middle Last

Street City County State Zip Code

- a. Is the Father deceased? *[Select One]* Yes No
If yes, attach death certificate as Exhibit " _____ "
and skip b-g.
- b. Has the Father signed a consent for the creation of this temporary guardianship? *[Select One]* Yes No
- c. Is the Father's address known and listed above? *[Select One]* Yes No
- d. Have the Father's rights been terminated via Court Order? *[Select One]* Yes No
If yes, attach the Order as Exhibit " _____ ."
- e. Has the Father lost custody via Court Order? *[Select One]* Yes No
If yes, attach the Order as Exhibit " _____ ."
- f. Does the Father have joint legal custody via Court Order? *[Select One]* Yes No
If yes, attach the Order as Exhibit " _____ ."
- g. Does the Father have sole legal custody via Court Order? *[Select One]* Yes No
If yes, attach the Order as Exhibit " _____ ."

6.

Is the Minor fourteen years of age or older? *[Select One]* Yes No

If you answer "Yes," and the Minor made a selection, attach the Minor's Selection for the Petitioner(s) to act as temporary guardian(s) as Exhibit " _____ ."

7.

The temporary guardianship is needed because:

8.

Additional Data: [Where full particulars are lacking, state here the reasons for any such omission. Also, state here all pertinent facts that may govern the method of giving notice to any party and that may determine whether or not a guardian ad litem should be appointed for any party.]

WHEREFORE, Petitioner(s) pray(s) that:

1. Service be perfected as provided by law; and
2. Petitioner(s) be appointed temporary guardian(s) of the Minor named above.

Signature of First Petitioner

Signature of Second Petitioner, if any

Printed Name

Printed Name

Mailing Address

Mailing Address

Telephone Number

Telephone Number

Signature of Attorney _____

Printed Name of Attorney _____

Address _____

Telephone Number _____ State Bar # _____

VERIFICATION

GEORGIA, _____ COUNTY

Personally appeared before me the undersigned Petitioner(s) who, after being duly sworn, state(s) that the facts set forth in the foregoing Petition for Temporary Letters of Guardianship of Minor (and the attached Exhibit(s)) are true and correct.

Sworn to and subscribed before me this

_____ day of _____, 20_____

Signature of First Petitioner

NOTARY/CLERK OF PROBATE COURT

Printed Name of First Petitioner

My Commission Expires _____

Sworn to and subscribed before me this

_____ day of _____, 20_____

Signature of Second Petitioner, if any

NOTARY/CLERK OF PROBATE COURT

Printed Name of Second Petitioner, if any

My Commission Expires _____

IN THE PROBATE COURT OF _____ COUNTY
STATE OF GEORGIA

IN RE: ESTATE OF _____)
)
) **ESTATE NO.** _____
MINOR _____)

CONSENT OF FATHER

I, _____,
[Full name of Father] First Middle Last

Street City County State Zip Code

Father of the above named Minor, do hereby consent to the creation of a temporary guardianship and the appointment of *[list all parties to whom you wish to grant temporary guardianship]*:

[Full name of first Temporary Guardian] First Middle Last

[Full name of second Temporary Guardian] First Middle Last

and also acknowledge service of the Petition for Appointment of a Temporary Guardian for said Minor and waive any and all further service and notice concerning said Petition.

I further understand that, pursuant to O.C.G.A. § 29-2-8 (b), upon a petition for termination by a natural guardian as defined in said statute *[see instructions]*, the Court will remove the Temporary Guardian(s) and dissolve the temporary guardianship unless an objection is timely filed by the appointed Temporary Guardian(s). If an objection is timely filed to such petition for termination, the Juvenile Court or the Probate Court shall determine, after notice and hearing, whether a continuation or dissolution of the temporary guardianship is in the best interest of the Minor. I understand that nothing herein, including any optional Assumption by the Guardian(s) of the obligation to support the Minor to the extent that no other sources of support are available, affects my legal obligation to support and maintain said Minor.

Sworn to and subscribed before me this
_____ day of _____, 20_____.

Signature of Father

NOTARY/CLERK OF PROBATE COURT

Printed Name of Father

My Commission Expires _____

NOTICE

THE FOLLOWING PAGES ARE TO BE COMPLETED BY THE PETITIONER (MOVING PARTY) UNLESS OTHERWISE DIRECTED BY THE COURT.

SEE PROBATE COURT RULE 5.6 (A).

IN THE PROBATE COURT OF _____ COUNTY
STATE OF GEORGIA

IN RE: ESTATE OF _____)
)
_____,) **ESTATE NO.** _____
MINOR)

ORDER FOR SERVICE

It appearing that the Mother of the Minor named in the Petition has not acknowledged and consented to the Petition and that:

[Initial all that apply]

- _____ (a) she resides at a known address in the State of Georgia and she must, therefore, be served by personal service.
- _____ (b) she resides at a known address outside the State of Georgia and she must, therefore, be served by first class mail.
- _____ (c) her current address is unknown and she must, therefore, be served by publication once a week for two weeks.

It appearing that the Father of the Minor named in the Petition has not acknowledged and consented to the Petition and that:

[Initial all that apply]

- _____ (a) he resides at a known address in the State of Georgia and he must, therefore, be served by personal service.
- _____ (b) he resides at a known address outside the State of Georgia and he must, therefore, be served by first class mail.
- _____ (c) his current address is unknown and he must, therefore, be served by publication once a week for two weeks.

THEREFORE, IT IS ORDERED that notice issue and be served as indicated above and in accordance with law.

SO ORDERED this _____ day of _____, 20____.

Judge of the Probate Court

**IN THE PROBATE COURT OF _____ COUNTY
STATE OF GEORGIA**

IN RE: ESTATE OF _____)
)
) **ESTATE NO.** _____
MINOR _____)
)
)
DATE OF BIRTH _____)

TEMPORARY LETTERS OF GUARDIANSHIP OF MINOR

TO: _____, Temporary Guardian(s)

The above-named Minor has been found by this Court to be in need of a guardian and this Court has entered an Order appointing the above named individual(s) as such Guardian(s), who has/have assented to this appointment by taking the oath. In general, the duties of the Guardian(s) are to protect and maintain the person of the Minor.

Special Instructions:

1. It is your duty to see that the Minor is adequately fed, clothed, sheltered, educated, and cared for and that the Minor receives all necessary medical attention;
2. You must keep the Court informed of any change in your name and/or address;
3. You should inform the Court of any change of address of the Minor;
4. If the Order appointing you requires, you must file an annual Personal Status Report concerning the Minor; and
5. Your authority to act pursuant to these Letters is subject to applicable statutes and to any special orders entered in this case.

[Initial if applicable]

_____ If initialed, the guardianship shall be deemed a permanent guardianship for the purposes of the Guardian(s) obtaining medical insurance coverage for the Minor.

Given under my hand and official seal, the _____ day of _____, 20__.

*NOTE: The following must be signed if the
Judge does not sign the original of
this document:*

Judge of the Probate Court

Issued by: _____ *[Seal]*

Clerk of the Probate Court