

INSTRUCTIONS TO RESPOND TO PETITION FOR APPOINTMENT OF A GUARDIAN – MINOR CHILD

These standard instructions are for informational purposes only and are not meant to be legal advice about your specific case. If you choose to represent yourself, you are bound by the same procedures and rules as a lawyer.

Use these Instructions **ONLY** when you have been named as the Respondent or Defendant in a Petition for Guardianship.

GENERAL INFORMATION

1. If you and the Petitioner(s) already agree about how you want the guardianship arrangement to be handled, you may complete and sign a Consent and Waiver of Notice form. This must be signed in the presence of a notary public.
2. If you do not agree to the Petitioner(s) having guardianship of your child, then it is **very important that you file an answer with the court**, as described below. You will have **twenty (20) days** after you received the Petition for Guardianship to file the answer if you live in the same state, or 30 days if you live out of state. On the same day that you file the Answer at the courthouse, you must mail a copy of that answer to the Petitioner, which is the person that is asking to be named the child's guardian. If that person has a lawyer, you would mail the Answer to his or her lawyer, instead.
3. It is **also very important that you appear for the court hearing**. Make sure that the Court and the Petitioner(s) have your current address and telephone number.
4. Make sure to read any **Answers to Frequently Asked Questions on Guardianship**. They will help you to better understand the Guardianship process.

COMMON TERMS

1. The Petitioner is the person who filed the Petition for Guardianship.
2. The Respondent is the person answering the petition (that would be you).
3. "Guardian" means a person who has been appointed by the court to exercise the powers granted by the court. The term includes a plenary (full), limited, emergency and standby guardian, but does not include a guardian ad litem (see below for more information on Guardian Ad Litem);;

4. "Minor" means a child under the age of 18. There is an instance where a child under age 18 is not considered a minor, and that would be if he or she had been emancipated, but if that were the case, then there would be no need for a guardian.

FORMS

Check with the District Court where your case was filed by the Plaintiff to determine if they have any special requirements.

STEPS TO ASWERING OR RESPONDING TO THE PETITION

Step 1: Complete Answer Form.

Your Answer is simply telling (in writing) the Judge what you object to, and why. *Make sure that you make a copy of the Answer.*

- **Answer to Petition for Guardianship:**

- ✓ Go through each numbered paragraph in the Petition and decide whether you agree (admit), do not agree (deny), or do not have enough information to agree or not agree.

Step 2: You are Ready to File your Papers with the Court.

Provide the Court with the document completed as described in Step 1 above. You will need to make copies of the document for the Petitioner(s) in this case, and mail them, first class mail, on the day you file the original at the courthouse.

Step 3:Hearing.

You, as the Respondent, and the Petitioner, must appear at the hearing. This is very important. If you do not appear at the hearing, the Court will most likely allow the Petitioner to become the guardian of your child.

- a. There is a chance that the Court will send you a letter before the court date. If you receive this, make sure to follow the instructions exactly. The judge may order that you send a list of your witnesses and other evidence to the court and opposing party a certain number of days before the hearing or by a specific date. If you do not follow these instructions, the judge may not allow you to use your witnesses or other evidence. You can use this form to prepare your evidence lists for the opposing party:

- **Pretrial disclosures**

- b. It is the duty of the Petitioner to present evidence showing that you, as the parent/respondent are aware of the proceedings and that you agree to the Guardianship. If you do not agree or consent to the Guardianship, the Petitioner must present evidence showing that you, as the parent, are either unwilling or unable to take care of your child and the court must find that you are unfit as a parent. Be prepared to offer evidence such as witnesses (family, friends, teachers, medical providers) showing that you have provided for your children and are a fit parent.
- c. If the Court appoints a Guardian, the Court will issue Letters as a formal notice of the appointment and provide you with a copy of the Order Appointing Guardian.
- d. If the Court awards Guardianship to the Petitioner, this does not mean that you do not have any more rights to your child. You can ask for visitation with the child(ren). And if your circumstances change, so that you believe you are in a better position to have your child/ren back, then you may file a Petition to Terminate Guardianship, and request another hearing. At this hearing, you will want to put on evidence (witnesses, documentation) that you are able to provide a stable life for your child, and show what you have done differently since the last hearing.