

GUARDIANSHIP OF A MINOR

YOU MUST FILL OUT ALL OF THE FORMS PROVIDED IN THIS PACKET. STATE STATUTE IS PROVIDED AS TO WHY SOME OF THE FORMS ARE NEEDED.

These can be done at Walk-in time, 9:00AM – 10:00AM on Tuesdays, Wednesdays and Thursdays only if you have consent from all closest relatives. Otherwise, you need a hearing date set so that you can gather up all paperwork or have all parties present in court.

COST:	ASSETS UNDER \$15,000	\$124.00
	ASSETS OVER \$15,000	\$159.00

This does not include cost of “Letters of Office”. These are \$2.00 each and can be purchased at the time of e-filing case or at any time later (as long as the case is open).

FORMS:

PETITION FOR GUARDIANSHIP OF MINOR (MUST LIST REASON FOR GUARDIANSHIP AND ALL CLOSEST LIVING RELATIVES WITH ADDRESSES)

NOTICE OF HEARING (WITH ALL RELATIVES LISTED ON PETITION SHOULD BE SENT OUT WITH COPY OF PETITION AND TO LAST KNOWN ADDRESS – DOES NOT NEED TO BE SENT CERTIFIED. YOU NEED TO GET DATE & TIME FROM JUDGE’S CLERK.

CERTIFICATE OR PROOF OF SERVICE (THAT ABOVE DOCUMENTS WERE MAILED OUT)

OATH AND BOND

ORDER APPOINTING GUARDIAN OF MINOR

ONCE GRANTED, A COURT DATE WILL BE SET FOR ONE YEAR OUT. AT THAT TIME YOU WILL NEED TO PROVIDE TO THE COURT AN ANNUAL REPORT. IF THE COURT APPROVES THE REPORT, ANOTHER DATE WILL BE SET AGAIN ONE YEAR OUT AND EACH YEAR THE PROCESS IS THE SAME.

ESTATES

(755 ILCS 5/) Probate Act of 1975.

(755 ILCS 5/Art. XI heading)
ARTICLE XI. MINORS

(755 ILCS 5/11-1) (from Ch. 110 1/2, par. 11-1)

Sec. 11-1. Minor defined.) A minor is a person who has not attained the age of 18 years. A person who has attained the age of 18 years is of legal age for all purposes except as otherwise provided in the Illinois Uniform Transfers to Minors Act.

(Source: P.A. 84-915.)

(755 ILCS 5/11-3) (from Ch. 110 1/2, par. 11-3)

Sec. 11-3. Who may act as guardian.

(a) A person is qualified to act as guardian of the person and as guardian of the estate if the court finds that the proposed guardian is capable of providing an active and suitable program of guardianship for the minor and that the proposed guardian:

- (1) has attained the age of 18 years;
- (2) is a resident of the United States;
- (3) is not of unsound mind;
- (4) is not an adjudged person with a disability as defined in this Act; and
- (5) has not been convicted of a felony, unless the court finds appointment of the person convicted of a felony to be in the minor's best interests, and as part of the best interest determination, the court has considered the nature of the offense, the date of offense, and the evidence of the proposed guardian's rehabilitation. No person shall be appointed who has been convicted of a felony involving harm or threat to a child, including a felony sexual offense.

One person may be appointed guardian of the person and another person appointed guardian of the estate.

(b) The Department of Human Services or the Department of Children and Family Services may with the approval of the court designate one of its employees to serve without fees as guardian of the estate of a minor patient in a State mental hospital or a resident in a State institution when the value of the personal estate does not exceed \$1,000.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11-5) (from Ch. 110 1/2, par. 11-5)

Sec. 11-5. Appointment of guardian.

(a) Upon the filing of a petition for the appointment of a guardian or on its own motion, the court may appoint a guardian of the estate or of both the person and estate, of a minor, or may appoint a guardian of the person only of a minor or minors, as the court finds to be in the best interest of the minor or minors.

(a-1) A parent, adoptive parent or adjudicated parent, whose parental rights have not been terminated, may designate in any writing, including a will, a person qualified to act under Section 11-3 to be appointed as guardian of the person or estate, or both, of an unmarried minor or of a child likely to be born. A parent, adoptive parent or adjudicated parent, whose parental rights have not been terminated, or a guardian or a standby guardian of an unmarried minor or of a child likely to be born may designate in any writing, including a will, a person qualified to act under Section 11-3 to be appointed as successor guardian of the minor's person or estate, or both. The designation must be witnessed by 2 or more credible witnesses at least 18 years of age, neither of whom is the person designated as the guardian. The designation may be proved by any competent evidence. If the designation is executed and attested in the same manner as a will, it shall have prima facie validity. The designation of a guardian or successor guardian does not affect the rights of the other parent in the minor.

(b) The court lacks jurisdiction to proceed on a petition for the appointment of a guardian of a minor if it finds that (i) the minor has a living parent, adoptive

parent or adjudicated parent, whose parental rights have not been terminated, whose whereabouts are known, and who is willing and able to make and carry out day-to-day child care decisions concerning the minor, unless: (1) the parent or parents voluntarily relinquished physical custody of the minor; (2) after receiving notice of the hearing under Section 11-10.1, the parent or parents fail to object to the appointment at the hearing on the petition; or (3) the parent or parents consent to the appointment as evidenced by a written document that has been notarized and dated, or by a personal appearance and consent in open court; or (ii) there is a guardian for the minor appointed by a court of competent jurisdiction. There shall be a rebuttable presumption that a parent of a minor is willing and able to make and carry out day-to-day child care decisions concerning the minor, but the presumption may be rebutted by a preponderance of the evidence. If a short-term guardian has been appointed for the minor prior to the filing of the petition and the petitioner for guardianship is not the short-term guardian, there shall be a rebuttable presumption that it is in the best interest of the minor to remain in the care of the short-term guardian. The petitioner shall have the burden of proving by a preponderance of the evidence that it is not in the child's best interest to remain with the short-term guardian.

(b-1) If the court finds the appointment of a guardian of the minor to be in the best interest of the minor, and if a standby guardian has previously been appointed for the minor under Section 11-5.3, the court shall appoint the standby guardian as the guardian of the person or estate, or both, of the minor unless the court finds, upon good cause shown, that the appointment would no longer be in the best interest of the minor.

(c) If the minor is 14 years of age or more, the minor may nominate the guardian of the minor's person and estate, subject to approval of the court. If the minor's nominee is not approved by the court or if, after notice to the minor, the minor fails to nominate a guardian of the minor's person or estate, the court may appoint the guardian without nomination.

(d) The court shall not appoint as guardian of the person of the minor any person whom the court has determined had caused or substantially contributed to the minor becoming a neglected or abused minor as defined in the Juvenile Court Act of 1987, unless 2 years have elapsed since the last proven incident of abuse or neglect and the court determines that appointment of such person as guardian is in the best interests of the minor.

(e) Previous statements made by the minor relating to any allegations that the minor is an abused or neglected child within the meaning of the Abused and Neglected Child Reporting Act, or an abused or neglected minor within the meaning of the Juvenile Court Act of 1987, shall be admissible in evidence in a hearing concerning appointment of a guardian of the person or estate of the minor. No such statement, however, if uncorroborated and not subject to cross-examination, shall be sufficient in itself to support a finding of abuse or neglect.

(Source: P.A. 98-1082, eff. 1-1-15.)