Guardianship of a Minor

Guardianship of a minor is a legal process in which a court appoints a responsible the legal rights necessary to care for a child when the child's parents are unable or unwilling to do so. The guardian takes over parental responsibilities and makes decisions about the child’s health, education, and welfare. A guardianship may be needed if:

- both parents pass away or are unable to care for the child, a guardian is typically appointed to take over parental duties.
- the parents are alive but are unable to care for their child due to illness, substance abuse, incarceration, or other reasons.
- the minor receives a large sum of money or property, and a guardian is needed to manage these assets until the child reaches adulthood.

Guardianship is often a more permanent solution than foster care. Guardians may be relatives or family friends and often have long-term, legal authority over the child. **Foster care** is a temporary arrangement managed by the state, where a non-biological parent provides care and housing for a child/ren.

Types of Guardianship for Minors

Guardian of the Person.

This type of guardianship involves day-to-day responsibilities such as enrolling the child in school, providing food and shelter, and ensuring medical care. The guardian is provided with the decision-making power to address issues, including the minor's personal well-being, t education, health care, and general welfare.

Guardian of the Property.

This type of guardianship is established when a minor inherits property or receives assets through legal settlements (e.g., life insurance payouts or court settlements). The guardian manages the child’s assets to make sure they are used for the child’s benefit. A guardian of the property is required to file the initial inventory and annual

reports with the court to show how the assets are managed.

Plenary Guardianship.

In some cases, the court may appoint a plenary guardian, providing the guardian with all delegable legal rights and power to care for both the child's person and property.

Establishing Guardianship

1. **Filing a Petition -** A family member, friend, or other interested party can file a petition for guardianship with the court. The petition should include reasons why the child needs a guardian and why the petitioner is a suitable candidate.
2. **Investigation and Hearing -** The court conducts an investigation to determine whether guardianship is necessary and whether the proposed guardian is fit for the role. A judge may appoint a *guardian ad litem* to represent the child’s best interests during the process.

If both parents are alive, they are notified and given the opportunity to contest the guardianship.

3. **Appointment of Guardian -** If the court finds guardianship is in the child's best interest, it will issue an order appointing the guardian. The guardian must take an oath to faithfully perform their duties.
4. **Ongoing Oversight -** The court continues to monitor the situation to ensure that the guardian is fulfilling their responsibilities. Guardians are required to file annual reports with the court, particularly in cases where they are managing the child's property or assets.

Termination of Guardianship

A guardianship automatically terminates when a child turns 18 and is legally an adult (or, if the child is still in high school, until graduation but not later than age 19). Additionally, a guardianship may be terminated if 1) the circumstances that led to the guardianship (such as parental incapacity) improve, and the child is able to reunite with their parent, 2) the guardian can no longer serve in that capacity, 3) the guardian or child dies, or 4) the guardian requests a termination and the court

approves the request.

Additional Resources

- Florida Court Forms