

MINOR GUARDIANSHIP

General Information



Packet #1



These forms must not be used to engage in the unauthorized practice of law. The court is not responsible for (1) actions taken by the users of these forms or (2) the users' reliance upon the instructions or information provided.

General Information & Frequently Asked Questions

This packet will give you an overview of what you need to do in order to obtain **voluntary guardianship** of a minor. You will learn what forms or packets you will need to fill out, where to obtain them, how to fill them out, and what to do with them.



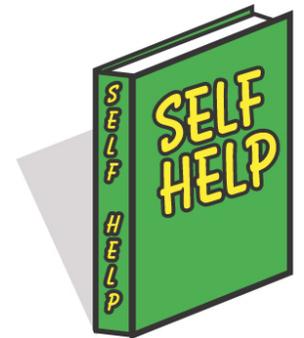
While the process of obtaining minor guardianship can seem overwhelming, please know that these packets are here to help make this process as easy as possible.

In general, if you follow the self-help instructions and fill out all the necessary forms correctly and completely, solving these issues can be a relatively simple process.

Self-Help Packets

You can use these self-help packets during the process of obtaining minor guardianship. These packets include all the forms you need, as well as detailed information and instructions. For more information about your duties as a Guardian and the **required** Annual Report, see Packet # 14, *Annual Report*.

These packets can also be found at the Self-Service Center, located in the Pima County Law Library, Room 256, on the second floor of the Pima County Superior Court at 110 West Congress Street, Tucson, AZ 85701.



The Self-Service Center is open from 8am to 5pm, Monday through Friday (except holidays). For more information, call **(520) 724-8456** or email pccl@sc.pima.gov.

Do I need a lawyer's help?

Court cases can be very complicated, and even if you are representing yourself you may want to see a lawyer for legal advice as to how the law applies to you and what is best in your

particular situation. This might save you time, money, and trips to Court and help you to avoid serious mistakes. There are lawyers who will help you on a limited basis. They will only charge for giving the help you need, and you can complete the Court papers on your own or ask the lawyer for help.

For more information, call the Self-Service Center at **(520) 724-8456** and ask how to find an attorney.



This symbol is a warning. It can mean a few different things:

- The topic may be confusing and you may need a lawyer's help.
- You may need to make sure that something is done

Whenever you see this symbol, **make sure** you read the information carefully and understand it fully.

What is minor guardianship?

Minor guardianship is a Court process that approves a person to act in place of a parent and take responsibility for a minor. A guardianship can be established for a short time (such as while a legal parent is working out of town or during deployment) or can continue until the minor turns 18.

If the Court appoints you as a guardian for a minor, you will become responsible to the Court. This packet will walk you through the process and explain your responsibilities. It is important that you clearly understand your responsibilities prior to accepting guardianship of a minor.

Please review the Arizona Supreme Courts' ***Welcome to Guardianship Training Module*** found at <http://www.azcourts.gov/probate/Training>.

What is a guardian?

A guardian exercises parental powers and responsibilities for a minor with approval of the Court but a guardian is not legally responsible for the support of the minor.

- This process is voluntary and **temporarily** gives the parental rights to the guardian.
- A guardianship does not terminate the parents' rights or their obligation of child support.
- Either parent of the minor can end a guardianship at any time, for any reason.
- By accepting appointment as guardian, you agree to meet the responsibilities required by the Court.

Who may be a guardian?



Before appointing a guardian for a minor, the Court must determine that the parents agree to the guardianship, that the parents cannot care for the minor because of circumstances, or there is no living parent. The parents must sign a consent form or be given notice of the guardianship proceedings and an opportunity to object.

Once the Court has determined that appointment of a guardian is necessary, the Court will select a guardian in the best interests of the minor. A guardian can be a relative, friend, or other interested person. Preference is given to the parents' choice of guardian, followed by preference to family members before other interested persons, but the Court will appoint a guardian that is in the minor's best interests.

What does a guardian do?

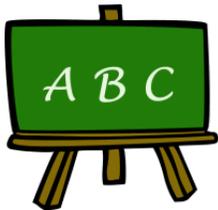
As a guardian, you are responsible for seeing that the minor's personal needs are met. This includes food, clothing, shelter, medical needs, education, social development, and religious activities. You must provide for the safety, protection, and emotional well-being of the minor. Like a parent, you should maintain close contact with the minor's teachers and doctors.

Legal Decision-Making – You are responsible for all of the decisions relating to the minor. The minor's parents can no longer make these decisions while there is a guardianship. The parents' rights are suspended – **not terminated** – as long as a guardian is appointed for a minor. If you wish, you may ask the parents for their opinions about decisions relating to the minor.



It is important to remember that this process is voluntary. Under most circumstances, it is best for you to have a working relationship with the parents.

Residence – You must choose where the minor lives. Normally, this would be with you. When necessary you can make other arrangements in the best interests of the minor.



Education – You are responsible for the minor's education. You determine where the minor attends school. You are the minor's advocate within the school system and are responsible for attending parent-teacher conferences. If the minor has special educational needs, you must help in obtaining services.

Medical Treatment – You are responsible for meeting the medical needs of the minor. This includes making all decisions regarding care for medical, dental, and vision. You must arrange for all necessary services and maintain regular contact with the minor's doctors.

Financial Support – Even when the minor has a guardian, the parents continue to be financially responsible for the support of the minor. As a guardian, you may obtain child support from the parents. For more information, contact Department of Economic Security at 1-800-882-4145 or online at www.azdes.gov/dcsc.

The minor may also be eligible for Nutrition Assistance (formerly the Food Stamp Program) and AHCCCS Health Insurance (medical assistance). You may contact the Arizona Department of Economic Security at www.azdes.gov for more information about what the minor may qualify. You are responsible for managing any financial support for the minor, such as child support from the parent, public benefits, or money from private sources. Any money received **must** first be used for the minor's current needs for support, care, and education. If there is money left over, it **must** be saved for the minor's future needs.

Guardians **must always** keep the minor's money separate from their own, use it only for the minor's expenses, and **keep records** of how the money is used and invested.

If the minor is entitled to receive more than \$10,000 per year, accumulates

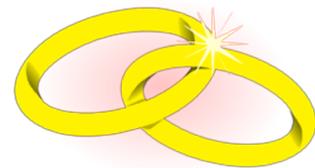


more than \$10,000 in excess money, or acquires land, a conservator **must** be appointed. Conservators can be (and usually are) the same person as the guardian. For more information about conservators, see Packet # 15, *General Order to Conservator for a Minor Child*.

Community Resources – Some minors in need of a guardianship may come from troubled environments. If the minor has special needs, you must try to meet those needs or obtain appropriate services. You should check with the Arizona Department of Economic Security at www.azdes.gov for a referral to agencies that can help you and the minor.

Driver’s License – You have the authority to consent, or refuse to consent, to the minor’s application for a driver’s license. If you give consent by signing the minor’s application for a permit or driver’s license, you become responsible for any damage caused by the minor’s negligent or willful misconduct. If you maintain appropriate automobile insurance for the minor, you will not be held personally liable. For more information, see ARS §28-3160.

Marriage – You have the right to consent, or refuse to consent, to the marriage of the minor. If the minor enters into a valid marriage, the minor becomes emancipated and the guardianship ends.



Misconduct of the Minor – You are responsible for any harm or damage caused by the intentional misconduct of the minor that results in any injury, whether or not you could have anticipated the misconduct. This includes theft or shoplifting. The maximum you may be held liable for is \$10,000 for each instance of misconduct by the minor.

Change of Address – You must notify the Court **immediately** in writing if the minor’s address or your address changes.



Once appointed as guardian, you will remain responsible until relieved of that responsibility by the Court.

What is the process to obtain minor guardianship?

You can begin the process of guardianship by filing a petition with the Superior Court, paying a filing fee, and setting a hearing before the judge. Before the hearing date, the minor's parents must sign a consent form or be provided notice. Minors 14 years of age or older must also receive notice or sign a consent form.



At the hearing, the judge will determine if the procedural requirements have been met, the appointment of a guardian is appropriate, and the proposed guardian is the best available choice. Most guardianship proceedings involving minors are uncontested and are resolved at the first hearing.

When applying for minor guardianship you will need to complete the following forms:

- *Petition for Appointment of Guardian(s) of Minor(s)* – See Packet #2
- *Acceptance of Guardianship of Minor(s)* – See Packet #3
- *Notice of Hearing (Appointment of Guardian)* – See Packet #4
- *Proof of Notice* – See Packet #4
- *Proposed Guardian's Affidavit Pursuant to A.R.S. § 14-5106* – See Packet #6
- *Statement Pursuant to A.R.S. § 14-5651* – See Packet #7
- *Affidavit Regarding Minor Children* – See Packet #8
- *Information Sheet* – See Packet #9
- *Consent and Waiver* – See Packet #10
- *Order Appointing Guardian(s) of Minor(s)* – See Packet #11
- *Letters of Guardianship of Minor(s)* – See Packet #12
- *Order to Guardian and Acknowledgment* – See Packet #13

What do I do after I have completed the forms?

Once you have completed the forms, you must print them and sign them in the areas designated for the Petitioner's Signature.



Some forms will require that you sign them in front of a notary. If the form requires

a notary's signature, **do not** sign them until you are in front of a notary. Fees may apply.

Make Copies!!! You will need one copy for yourself and one copy for each person who must receive notice. The Clerk will keep the originals for the Court.

Take the ***original and all copies*** of the following completed forms to the Probate Clerk of the Superior Court located at 110 W. Congress, Tucson, Arizona 85701:

- *Petition for Appointment of Guardian(s) of Minor(s)*
- *Acceptance of Guardianship of Minor(s)*
- *Proposed Guardian's Affidavit*
- *Statement Pursuant to A.R.S. § 14-5651*
- *Affidavit Regarding Minor Children*
- *Information Sheet*
- *Order Appointing Guardian(s) of Minor(s)*
- *Letters of Guardianship of Minor(s)*
- *Order to Guardian and Acknowledgement*

Filing fees are required. The Clerk has a fee schedule for the amounts that must be paid including the cost of making copies. The fees are subject to change and may be waived or deferred if you meet certain requirements and complete the necessary paperwork.

How much does it cost?

By Arizona law the Court is required to charge **fees** to file the documents related to minor guardianship. Here are some of the common fees and the amounts (as of September 2015):

- Petition to Appoint Guardian: \$193.
- Legal record copies through the Clerk of the Court, per page – \$0.50
- General use copies made in the library, per page – \$0.15

What if I cannot afford the fees?

If you cannot afford the fees, you can apply for a full waiver or deferral of the fees.

- A **deferral** is like a payment plan. It means that you divide the fees up and pay a little over a period of time, or that you don't pay fees until the end of your case.
- A **waiver** means that you do not have to pay the fees at all.

For more information, see Packet #5, *Deferral and Waiver of Fees and Costs*.

Do I have to be fingerprinted?



If you are a blood relative, you do not need to be fingerprinted. If you are **not a blood relative** of the minor, the Court will **require** you to provide a full set of fingerprints to the Court to have a criminal background check completed. For the purposes of guardianship, a blood relative is any of the following: birth parent, adoptive parent, sibling with at least one parent in common, grandparent, great-grandparent, aunt or uncle, or a first cousin. If you are not a blood relative, see Packet # 16, *Fingerprint Instructions*.

If you are a **not a blood relative** asking to be appointed as the guardian of a minor, you **must** ask for the fingerprint packet while you are at the Probate Clerk's Office filing your Petition for Guardian of a minor. The packet contains the items needed to complete the fingerprinting requirement. For more instructions see, Packet # 16, *Fingerprint Instructions*.

Who do I have to notify?

After filing the petition for guardianship, you **must** notify the minor's parents by "serving" the Notice of Hearing. Notice must be given to both parents of the minor, anyone the minor has lived within the past 60 days, and the minor if they are 14 years of age or older.

- A copy of the Notice of Hearing and the Petition must be mailed to these persons at least **19 days** before the hearing or hand-delivered at least **14 days** before the hearing.
- In the alternative, these persons may sign a consent to the guardianship and a waiver of the requirement of notice.
- Any of these persons whose whereabouts or identities are unknown must be notified by publication after a diligent search.



For more information, see Packet # 4, *Notice of Hearing & Proof of Notice*.

Do I have to file the proof of notice or consent?

Yes, after all parties have been notified or have signed the consent to the guardianship, take the appropriate forms back to the Probate Clerk at the Superior Court located at 110 W. Congress, Tucson, Arizona 85701 (**Note: there are no additional filing fees**):

- If notification was required:
 - File the *Notice of Hearing & Proof of Notice*. See Packet #4
- If the parents have consented to the guardianship:
 - File the *Consent and Waiver*. See Packet #10

What happens after minor guardianship is granted?

Once the Court grants you guardianship, you have an obligation to care for the minor as a parent and to perform the legal duties of a guardian.



You **must** also submit annual reports to the Court.
See Packet #14, *Annual Report*.

In certain situations, you may need to prove you are the legal guardian of the minor. To show proof of guardianship you are issued **Letters of Guardianship** by the Court. See Packet #12, *Letters of Guardianship of Minor(s)*.

- Keep your letters in a safe place.
- Make copies to show to schools, doctors, etc., when necessary.

What happens if the parents want to end the guardianship?

If a legal parent is ready to resume care of their minor, they can ask the Court to end the guardianship. See Packet #15, *Revocation of Parental Consent to Guardianship and Petition to Terminate the Guardianship*. Once the request has been submitted to the Court a hearing will be set, at which time a judge will decide whether to end the guardianship.



What do I do for the hearing?

After all parties have been notified and all forms have been filed, the next step is to appear at the hearing date and time.



If you or one of your witnesses requires an interpreter at the hearing, you **need** to complete a request using the Linguistic Accommodation form. The form is available online at:

http://www.sc.pima.gov/portals/0/interpreter/Request_For_An_Interpreter_English.pdf

It is also available at the Self-Service Center located in the Pima County Law Library, Room 256, on the second floor of the Pima County Superior Court, 110 West Congress Street, Tucson, AZ 85701.

Once your hearing date arrives, be sure to be on time. Allow time for parking. See parking specifics online at: <https://www.tucsonaz.gov/park-tucson>.

If you arrive late, you may have to reschedule your hearing.

If you don't appear at all, your case will not be decided.



DO be on time for Court. The judicial officer may not hear your case if you are late.

DO dress properly. Wear a suit, dress, or other neat, clean clothing.

DO turn off your cell phones and pagers while you are in the courtroom.

DO always refer to the judicial officer as "Your Honor." You may ask the judicial officer questions, but he/she cannot give you legal advice.

DO be quiet and courteous while you are in the courtroom awaiting your hearing.

DO NOT wear shorts, cutoffs, sleeveless T-shirts, other overly casual or suggestive clothing.

DO NOT bring drinks or food to Court and don't chew gum in the courtroom.

DO NOT offer to represent friends or family. You are only permitted to represent yourself.

DO NOT allow friends or family to participate in your hearing except as witnesses.