

Parents' rights in minor guardianship

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In a minor guardianship case, the guardian may ask a judge to restrict your contact with your child and limit your ability to make decisions for them. Before that happens, you have important rights to take part in the case and object to the appointment of a guardian. You can also ask the judge to appoint a lawyer for you at public expense if you can't afford one. (Forms and instructions)

1. Fast facts

What is minor guardianship?

Washington's State's minor guardianship law

(<https://app.leg.wa.gov/RCW/default.aspx?cite=11.130>) started in January 2021. The law created a court process to authorize someone to take custody of a child under age 18 who isn't their own.

If someone besides another parent or the State wants to get legal custody of your children, they must file a minor guardianship case. Before 2021, they would have filed a non-parent custody case.

A court order of minor guardianship creates a legal relationship between the children and an adult whom the court appoints to be their guardian. Then the guardian can take custody of your children; provide care, education, health, safety and welfare for the children; and consent to medical treatment for the children. The parents may have to pay child support to the guardian.

Why would someone file for guardianship of my children?

That person thinks guardianship would be in your children's best interests and that you and the other parent can't or won't take care of the children (you're unwilling to parent). If you receive guardianship papers, carefully read the Petition to find out what the claim is.

Guardianship doesn't end (terminate) your parental rights, and it doesn't have to last until the children are grown. Some parents may even agree that someone else should care for their children. But not everyone will or should agree to guardianship.

If you're the parent and you agree that someone else should care for your children, think about giving them Power of Attorney (POA) for parents, instead of guardianship. This cheap, effective alternative takes much less time when everyone agrees. It avoids court and doesn't take away your rights as a parent. You can cancel (revoke) this power of attorney at any time.

Even if you think guardianship is the best option, we strongly recommend you talk to a lawyer before signing a Parent's Consent to Minor Guardianship. If you can't afford a lawyer and you're not sure what to do, you can ask the judge to appoint a lawyer for you at public expense. You can talk to the lawyer about your options before making a final decision.

If the judge gives someone else guardianship, can I ever get my kids back?

If your situation has improved, you can go back to court to ask a judge to end (terminate) the guardianship. If you can show that the original reason for the guardianship no longer exists, the judge should end the guardianship **unless** the judge finds that ending it would be harmful to the children **and** that their interest in continuing the guardianship outweighs your interest in restoring your parental rights.

Even if you can't prove the guardianship should end, you may be able to change the guardianship to have more visits with the children or replace the guardian with someone else.

2. Object to guardianship

If you don't think your children need someone else to be a guardian, you can object in writing to the guardianship.

The person who wants guardianship must prove that no parent can or will take care of the children. They must prove this with clear and convincing evidence.

In most civil cases, you only have to prove things by a “preponderance of the evidence” — meaning you can show that something is more likely true than false. “Clear and convincing evidence” is harder. For that, you must prove something is very likely true.

You can stop the guardianship if you can show the judge that you’re willing and able to provide for your children’s support, care, education, health, and safety. It will help if you can provide specific examples and have witnesses who can tell the judge about your parenting.

If your children are or may be members of a Native American tribe, federal and state Indian Child welfare laws give you additional rights in a guardianship case.

Even if a judge appoints a guardian for your children, the judge can order that you still have visitation rights. The judge may also let you keep other rights, such as access to records or making certain decisions about the children. The guardianship court order will say what rights you have.

3. Ask for lawyer

If you’re a parent with low income and you file a response in a guardianship case or come to a hearing, the judge must appoint a lawyer for you at public

expense if any of these is also true:

- You object to the guardianship
- You need a lawyer to make sure you understand your agreement with the guardianship
- The judge finds other reasons that you need a lawyer.

You don't have to pay for a lawyer who is appointed at public expense.

You must fill out and file the Motion to Appoint Lawyer form if you want the judge to appoint one for you. You can do this at the same time you file your Objection, or later. It's best to do it as soon as possible.

You can also ask the judge to appoint a lawyer for your child.

4. Step-by-step

Follow these steps to object to guardianship and ask for a lawyer.

1. **Figure out your deadline.** Look for the "Summons" and the "Notice of Hearing" in the paperwork you received. The Summons will include the deadline to file a response. The Notice of Hearing says when you need to go to court. File and serve your objection and motion by the deadline, and as much before the hearing date as you can. If you file at the last minute, the judge may not have time to read your papers before the hearing.

2. **Fill out the forms** (except for the Proof of Mailing, Hand Delivery, or E-mail).

3. **Make copies.** You need one copy of each completed form for yourself, one for the judge, and one for each other party to your case.

Organize the copies in sets, so there's one set for each person who needs a copy. You don't have to give the other party a copy of the Proof of Mailing or Hand Delivery. Put each set of papers into an envelope addressed to each party, with your return address. You'll use these sets for service.

4. **File the originals** with the Superior Court Clerk. Give the clerk the originals of all your forms for filing **except** you should ask the clerk what to do with the originals of any proposed orders. Follow the clerk's instructions.

Ask the clerk to stamp your copies to show the date you filed the originals. Take the stamped copies back from the clerk. The clerk keeps the original.

Deliver working copies to the judge, if required in your county.

5. **Serve the other party (or parties)** with copies of everything you filed, and any proposed orders.

Follow the rules for service after a case starts. You can serve most motion papers yourself, but it's better to have someone else do it. Ask an adult friend or relative to do it for you. If the other party has a lawyer,

have the papers served on the lawyer.

6. **Have the server fill out the Proof of Mailing, Hand Delivery, or E-mail. Make 2 copies.** File the original with the Superior Court Clerk. Bring your copies to the hearing.
7. **Go to the hearing.** Tell the judge you object to the guardianship. If you can't afford a lawyer, ask the judge to sign your proposed Order Appointing Lawyer at public expense.
8. **Tell the judge's clerk you want a copy of the order.** Follow the clerk's instructions about getting copies.

The lawyer's name and contact information should be on the order.

9. **Once the lawyer is appointed,** contact them to talk about your goals and next steps. Keep your lawyer informed about how to reach you.

5. Forms

Form attached:

Objection to Minor Guardianship (GDN M 301)

Form attached:

Motion to Appoint Lawyer (GDN ALL 021)

Form attached:

Order Appointing Lawyer (GDN ALL 022)

Form attached:

Proof of Mailing, Hand Delivery, or E-Mail (Guardianship) (GDN ALL 009)

Tips for filling out Objection to Minor Guardianship (GDN M 301)

3. Parents' visitation, 4. Parents' decision making, 5. Access to records:

Complete these sections even if you disagree that the children need a guardian. You're not undermining your objection in filling these parts out. It's smart to prepare for the possibility that the judge will grant the guardianship anyway.

I (f your children are or may be Indian (members of a Native American tribe or eligible for membership) (, you should put that here. You should also put that the Indian Child Welfare Act and the Washington State Indian Child Welfare Act, special laws providing protection for Indian children, apply here. You should put that these laws were designed to help preserve Indian families and that the Petitioner and the court must follow the laws before they can consider taking the children from you.

If you're Native American, or the children are or may be, you can use this space to put any of these, if true:

- The petitioner didn't investigate the children's tribal connections. The children may be members of an Indian tribe.

- The children live on an Indian reservation. You want the tribal court to hear this case.
- You can ask to have the case moved to the tribal court of the children's tribe even if the children don't live on the reservation.
- You didn't receive the right notices (forms #s GDN M 401, 402 & 403 (<https://www.courts.wa.gov/forms/?fa=forms.static&staticID=14#minorGuardianship>)) from the Petitioner telling you about your additional rights under the Indian Child Welfare Act.
- Your tribe or the children's tribe didn't receive notice of this case.
- The petitioner didn't help get you connected with services and programs to address problems interfering with your ability to parent.

Section 9. Other requests, if any: Most people will leave this blank. You can use this space if you think there's something the court needs to know that doesn't fit elsewhere in this form. **If you're Native American, or the children are or may be,** you can use this space to ask:

- That your tribe, the children's tribe, or a tribe that the children may be members of get notice of this case, if it hasn't happened
- That this case be transferred (moved) to tribal court, if that's what you want
- That the court order the petitioner to help get you connected with services and programs to address problems that affect your ability to take care of your children.

Tips for filling out Motion to Appoint Lawyer (GDN ALL 021)

Fill out the **motion** form to explain what you want the judge to do and why they should do it.

This form is also used in other types of cases. Be careful to only fill out the sections that apply to minor guardianships. **You can skip Sections 4 and 5.**

Section 3. Why should a lawyer be appointed in a Minor Guardianship: If you're Native American, or the children are, you should also check **need a lawyer because**. Put "I can't afford a lawyer and am the parent of an Indian child and am thus entitled to a lawyer appointed at public expense under the ICWA and WICWA." You should also put any information about the children's tribal affiliations.

Section 6. Don't list a lawyer here before discussing it with them first. They may not have any experience in this type of case. They may not be able to represent you for other reasons.

Tips for filling out Order Appointing Lawyer (GDN ALL 022)

Fill out the **order** form the way you want the judge to sign it. This is a **proposed order** you'll ask the judge to sign at the hearing. If you're not sure about something in the order, leave it blank for the judge to complete.

Section 3. Reasons for appointment in a Minor Guardianship: If you're Native American, or the children are, you should also check **need a lawyer because**. Put "parent is indigent and the parent of an Indian child, so parent is entitled to a lawyer appointed at public expense under the ICWA and WICWA." You should also put any information about the children's tribal affiliations.

6. Tips for filling out Proof of Mailing, Hand Delivery, or E-Mail (GDN ALL 009)

Fill out this form after serving the other party. Whoever served the other party must sign it. Follow the rules for service after a case starts.

Check to be sure your server filled out the date of service, who the papers were delivered to, and how they were delivered. Also be sure the form lists all documents that were served. If your server leaves out a form, you won't have proof it was served.

WashingtonLawHelp.org gives general information. It is not legal advice. Find organizations that provide free legal help on our [Get legal help](#) page.

Superior Court of Washington, County of _____
In re Guardianship/Conservatorship of: _____
Respondent/Minor _____

No. _____

**Motion to Appoint Lawyer
(MT)**

Motion to Appoint Lawyer

Use this form together with Order Appointing Lawyer (form GDN ALL 022). Check local court rules or ask the court clerk how you present this motion.

1. Who is making this request?

My name is _____. I am a:

- ☐ Respondent or minor 12 years or older
- ☐ Parent of the children
- ☐ Court Visitor or Guardian ad Litem
- ☐ Guardian or Conservator
- ☐ Lawyer for Respondent, who has not been appointed in this case
- ☐ Other (*describe relationship*): _____

2. Who needs a lawyer?

I ask the court to appoint lawyer/s for (*name/s*) _____

3. Why should a lawyer be appointed in a Minor Guardianship? (*Check all that apply*)

- ☐ Does not apply. This is **not** a Minor Guardianship case.
- ☐ The **parent/s** listed in section 2 ☐ can ☐ **cannot** afford a lawyer (indigent) and:
 - ☐ object to guardianship over their child.
 - ☐ may consent to guardianship over their child, but a lawyer is needed to make sure this consent is fully informed.
 - ☐ need a lawyer because: _____

Important! The court **must** appoint a lawyer at **public expense** for an indigent parent who appears in a minor guardianship case if any one of the above statements is true. If a parent is **not** indigent, the court **may** appoint a lawyer if any one of the above statements is true. A parent may have to fill out a financial statement.

- ☐ The **child** listed in section 2:
 - ☐ is age 12 or older and has asked for a lawyer.
 - ☐ should have a lawyer, as recommended by a Guardian ad Litem or Court Visitor.
 - ☐ has chosen a lawyer who has not yet been appointed by the court.
 - ☐ needs a lawyer because: _____

4. Why should a lawyer be appointed in a Minor Conservatorship or Protective Arrangement? (Check all that apply)

- ☐ Does not apply. This is **not** a Minor Conservatorship or Protective Arrangement.
- ☐ The minor's chosen lawyer has not yet been appointed by the court.
- ☐ The minor's rights cannot otherwise be adequately protected and represented.
- ☐ The minor needs a lawyer because: _____
- ☐ A lawyer must be appointed for the minor at **public expense** because:
 - ☐ the minor cannot afford a lawyer.
 - ☐ the expense of a lawyer would result in substantial hardship to the minor.
 - ☐ the minor does not have practical access to funds to pay a lawyer.
(The court may require reimbursement if this is the only reason to appoint a lawyer at public expense.)
- ☐ The minor's **parent** needs a lawyer because they:
 - ☐ object to conservatorship/protective arrangement over their child.
 - ☐ may consent to conservatorship/protective arrangement over their child, but a lawyer is needed to make sure this consent is fully informed.
 - ☐ other reason: _____

5. Why should a lawyer be appointed in an Adult Guardianship, Conservatorship, or Protective Arrangement? (Check all that apply)

- ☐ Does not apply.
- ☐ Respondent's chosen lawyer has not yet been appointed by the court.
- ☐ Respondent's rights cannot otherwise be adequately protected and represented.
- ☐ Respondent objects to the petition.
- ☐ Respondent requests appointment of a lawyer.
- ☐ Respondent needs a lawyer because: _____
- ☐ Petitioner filed a Petition for Emergency Guardianship/Conservatorship.

6. Who should be appointed?

- ☐ The court should decide who to appoint.

- ☐ (Lawyer name) _____, WSBA number _____
should be appointed as lawyer for (name) _____
☐ This lawyer is the willing counsel of this person's choosing.
- ☐ (Lawyer name) _____, WSBA number _____
should be appointed as lawyer for (name) _____
☐ This lawyer is the willing counsel of this person's choosing.

7. Payment

The lawyer should be appointed:

- ☐ At **public** expense because:
- ☐ Respondent cannot afford a lawyer.
 - ☐ The expense of a lawyer would result in substantial hardship to Respondent.
 - ☐ Respondent does not have practical access to funds to pay a lawyer.
(The court may require reimbursement if this is the only reason to appoint a lawyer at public expense.)
- ☐ At **private** expense.

The lawyer must be paid at a rate of \$ _____ per hour up to a maximum of \$ _____
or _____ hours unless the lawyer obtains prior approval from the court for a different
amount. The payment shall be made by (name) _____.

Person asking for this order fills out below:

I declare under penalty of perjury under the laws of the State of Washington that the facts I have
provided on this form are true.

Signed at (city and state): _____ Date: _____



Person asking for this order signs here

Print name here

The following is my contact information:

Email: _____ Phone (Optional): _____

I agree to accept legal papers for this case at (check one):

- ☐ my lawyer's address, listed below.
- ☐ the following address (this does **not** have to be your home address):

Street Address or PO Box City State Zip

Superior Court of Washington, County of _____

In re Guardianship/Conservatorship of:

No. _____

**Order Appointing Lawyer
(OAPAT)**

Respondent/Minor

Clerks Action: 6

Order Appointing Lawyer

1. The court has considered (*requesting party's name or court's own*) _____'s motion to appoint a lawyer.
2. The court finds there are good reasons to appoint a lawyer for (*name/s*): _____

3. Reasons for appointment in a Minor Guardianship

(*Check all that apply*)

- ☐ Does not apply. This is **not** a Minor Guardianship case.
- ☐ The **parent/s** listed in section 2 ☐ can ☐ **cannot** afford a lawyer (indigent) and:
 - ☐ objects to guardianship over their child.
 - ☐ may consent to guardianship over their child, but a lawyer is needed to make sure this consent is fully informed.
 - ☐ needs a lawyer because: _____

Important! The court **must** appoint a lawyer at **public expense** for an indigent parent who appears in a minor guardianship case if any one of the above statements is true. If a parent is **not** indigent, the court **may** appoint a lawyer if any one of the above statements is true.

- ☐ The **child** listed in section 2:
 - ☐ is age 12 or older and has asked for a lawyer.
 - ☐ should have a lawyer as recommended by a Guardian ad Litem or Court Visitor.
 - ☐ has chosen a lawyer who has not yet been appointed by the court.
 - ☐ needs a lawyer because: _____

4. Reasons for appointment in a Minor Conservatorship or Protective Arrangement
(Check all that apply)

- ☐ Does not apply. This is **not** a Minor Conservatorship or Protective Arrangement.
- ☐ The minor's chosen lawyer has not yet been appointed by the court.
- ☐ The minor's rights cannot otherwise be adequately protected and represented.
- ☐ The minor needs a lawyer because: _____
- ☐ A lawyer must be appointed for the minor at **public expense** because:
 - ☐ the minor cannot afford a lawyer.
 - ☐ the expense of a lawyer would result in substantial hardship to the minor.
 - ☐ the minor does not have practical access to funds to pay a lawyer.
(The court may require reimbursement if this is the only reason to appoint a lawyer at public expense.)
- ☐ The minor's **parent** needs a lawyer because:
 - ☐ they object to conservatorship/protective arrangements over their child.
 - ☐ they may consent to conservatorship/protective arrangements over their child, but a lawyer is needed to make sure this consent is fully informed.
 - ☐ other: _____

5. Reasons for appointment in an Adult Guardianship, Conservatorship, or Protective Arrangement
(Check all that apply)

- ☐ Does not apply.
- ☐ Respondent's chosen lawyer has not yet been appointed by the court.
- ☐ Respondent's rights cannot otherwise be adequately protected and represented.
- ☐ This is an Emergency Guardianship/Conservatorship.
- ☐ Respondent objects to the petition.
- ☐ Respondent requests appointment of a lawyer.
- ☐ Respondent needs a lawyer because: _____
- ☐ A lawyer must be appointed at **public expense** because:
 - ☐ Respondent cannot afford a lawyer.
 - ☐ the expense of a lawyer would result in substantial hardship to the Respondent.
 - ☐ Respondent does not have practical access to funds to pay a lawyer.
(The court may require reimbursement if this is the only reason to appoint a lawyer at public expense.)

➤ **The court orders:**

6. Appointment

The court appoints the following person as lawyer for (name) _____
Name and WSBA number: _____

Address: _____

Phone number: _____

Email address (optional): _____

☐ This lawyer is the willing counsel of this person's choosing.

The court appoints the following person as lawyer for (name) _____

Name and WSBA number: _____

Address: _____

Phone number: _____

Email address (optional): _____

☐ This lawyer is the willing counsel of this person's choosing.

7. Payment

☐ Reserved. The court may decide the responsibility to pay and the reasonableness of fees at a later hearing.

☐ The lawyer must be paid:

☐ at **private** expense of the person being represented.

☐ at **public** expense.

The lawyer must be paid at a rate of \$ _____ per hour up to a maximum of \$ _____ or _____ hours unless the lawyer obtains prior approval from the court for a different amount.

The court may decide later if anyone must reimburse public or private fees paid.

Ordered.



Date

Judge or Commissioner

Parties or their lawyers fill out below:

Presented by:



Signature of Party/Lawyer

Print Name

WSBA No.

Copy received and approved by:



Signature of Party/Lawyer

Print Name

WSBA No.



Signature of Party/Lawyer

Print Name

WSBA No.



Signature of GAL or Visitor

Print Name

Superior Court of Washington, County of _____

In the Guardianship/Conservatorship of:

_____,
Respondent/Minor/s

No. _____

**Proof of Mailing, Hand Delivery,
or E-mail
(AFSR)**

Proof of Mailing, Hand Delivery, or E-Mail

*To be used when personal service is **not** required.*

I declare:

1. Who is Giving Notice

I am (*check one*): ☐ the Petitioner ☐ the Guardian/Conservator

☐ (*name*): _____ and I am competent to be a witness in this case.

2. Documents Delivered

a. For Use in a Minor Guardianship:

<input type="checkbox"/> Minor Guardianship Petition	<input type="checkbox"/> Declaration Explaining the Reasons for Minor Guardianship
<input type="checkbox"/> Notice of Hearing: _____	<input type="checkbox"/> Order: _____
<input type="checkbox"/> Declaration of: _____	<input type="checkbox"/> Declaration of: _____
<input type="checkbox"/> Declaration of: _____	<input type="checkbox"/> Motion for: _____
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Other: _____
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Other: _____
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Other: _____

b. For Use in an Adult Guardianship or Conservatorship *After* Appointment:

<input type="checkbox"/> Guardian/Conservator's Plan	<input type="checkbox"/> Inventory
<input type="checkbox"/> Notice of Right to Object to Plan	<input type="checkbox"/> Guardian/Conservator's Report

<input type="checkbox"/> Notice of Substantial Change in Circumstances	<input type="checkbox"/> Notice of Rights
<input type="checkbox"/> Order: _____	<input type="checkbox"/> Notice of Hearing: _____
<input type="checkbox"/> Declaration of: _____	<input type="checkbox"/> Motion for: _____
<input type="checkbox"/> Sealed Records: _____	<input type="checkbox"/> Other: _____
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Other: _____
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Other: _____

3. Proof of Mailing, Hand Delivery, or E-mail

On (date) _____ at (time) _____ ☐ a.m. ☐ p.m., I delivered true and correct copies of the documents listed in paragraph 2 above to the following individuals at the following addresses by the method indicated: *(If additional space is needed, attach a separate sheet of paper.)*

Name/s: _____	<input type="checkbox"/> Hand Delivered
_____	<input type="checkbox"/> Regular 1 st Class US Mail
Address: _____	<input type="checkbox"/> Certified Mail, Return Receipt Requested
_____	<input type="checkbox"/> E-mail
	<input type="checkbox"/> Other: _____
<hr/>	
Name/s: _____	<input type="checkbox"/> Hand Delivered
_____	<input type="checkbox"/> Regular 1 st Class US Mail
Address: _____	<input type="checkbox"/> Certified Mail, Return Receipt Requested
_____	<input type="checkbox"/> E-mail
	<input type="checkbox"/> Other: _____
<hr/>	
Name/s: _____	<input type="checkbox"/> Hand Delivered
_____	<input type="checkbox"/> Regular 1 st Class US Mail
Address: _____	<input type="checkbox"/> Certified Mail, Return Receipt Requested
_____	<input type="checkbox"/> E-mail
	<input type="checkbox"/> Other: _____
<hr/>	
Name/s: _____	<input type="checkbox"/> Hand Delivered
_____	<input type="checkbox"/> Regular 1 st Class US Mail
Address: _____	<input type="checkbox"/> Certified Mail, Return Receipt Requested
_____	<input type="checkbox"/> E-mail
	<input type="checkbox"/> Other: _____

I declare under penalty of perjury under the laws of the State of Washington that the statements above are true and correct.

Signed at (city and state) _____ on (date) _____

Signature

Printed Name