

You've Been Named as a Guardian for a Minor Child . . . Now What?

A guardian is a person appointed by the court to care for a minor and manage the minor's assets. Parents nominate guardians for their children in their Wills. A guardian will be appointed by the court for a minor child following the death of the child's parents. If you have been named as a guardian for a minor child, what should you do after the death of the child's parents? Below are a few frequently asked questions.



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What Should I Do First?

Obtain a copy of the deceased parent's Will as proof of your nomination as guardian.

Do I Need An Attorney?

Yes, to be appointed by the court as a guardian, you must file a petition with the court, notify interested parties, and attend a hearing. You should retain an attorney to navigate you through the guardianship court proceeding. Your attorney will also assist you in claiming any government benefits payable to the minor.

What Happens At The Hearing?

At the hearing, you will answer a few questions about yourself. If the judge determines the minor's best interests are served by having you act as guardian, the judge will enter an order appointing you as guardian.

How Do I Prove I Have Been Appointed Guardian?

After the judge enters the ordering appointing you as guardian, the clerk of the court will issue a document known as Letters of Office signifying that you are the minor's court-appointed guardian. You may order multiple copies of your Letters of Office. You should provide a copy of your Letters of Office to third parties as proof of your authority as guardian.

Are There Different Kinds Of Guardians?

Yes, there are two types of guardians. A guardian of the person assumes physical custody of the minor, while a guardian of the estate manages the minor's assets. Oftentimes, the same person serves as both guardian of the estate and person.

What Are My Responsibilities As Guardian of The Estate?

As guardian of the estate for a minor, you are responsible for prudently using and managing assets belonging to the child. If the minor has significant financial assets, you should seek professional investment advice.

How Long Will I Be Guardian?

Guardianships terminate when the child reaches 18 years of age. Your attorney will assist you in preparing and filing court documents requesting the court's permission to distribute any assets directly to the child and close the guardianship proceeding.

What Are The Costs Associated With A Guardianship Proceeding?

The initial costs associated with filing a guardianship proceeding include attorney's fees, filing costs, guardian ad litem fees, and surety bond premiums. There are also annual attorney's fees associated with filing the guardian's yearly report and accounting with the court. If the minor is required to file annual income tax returns, there will also be tax return preparation fees. All of these fees and costs may be paid from the minor child's assets (known as the child's guardianship estate).

Do I Need To Keep Records?

Keep detailed records of the management of the minor's assets and finances. You are required to file a detailed annual accounting with the court.

Can I Reimburse Myself For Out-Of-Pocket Expenses?

Yes, you are entitled to reimbursement for out-of-pocket expenses incurred for the benefit of the minor while acting as guardian. Keep written records of your out-of-pocket expenses and reimburse yourself regularly.

Am I Entitled To Compensation For Acting As An Guardian?

Compensation is not mandatory but you are entitled to reasonable compensation for your services as guardian. Document the time you spend acting as guardian.



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