

**IN THE CIRCUIT COURT OF ST. LOUIS COUNTY  
PROBATE DIVISION / FAMILY COURT**

**OBTAINING GUARDIANSHIP OF MINORS  
POLICIES, PROCEDURES, FREQUENTLY ASKED QUESTIONS**

**1. What is Guardianship and why is it needed?**

- a. Guardianship of a minor is a court proceeding in which someone other than the child's parents ask the court for authority to provide for that child because the parents are unable, unwilling or unfit to parent the child. You, as the petitioner, must provide enough information to the court to show that inability to parent the child.
- b. Requirements for guardianship are largely statutory and those laws are contained in Chapter 475 of the Missouri Revised Statutes<sup>1</sup>.
- c. If you are appointed as guardian, you will be responsible for the care and custody of the child and must provide for their education, support and maintenance.
- d. Once an Order of Guardianship is entered and until the child reaches the age of 18 or the court terminates the guardianship, the child's parents no longer have the authority to control, direct, or monitor the actions, behaviors or activities of the child. This authority now lies with you as the guardian. The parents can still visit the child.
- e. If circumstances change with the parents, they can petition the court to terminate the guardianship and have their parental authority restored to them. Procedures for termination of a guardianship are contained in No. 17 of this information.

**2. Is there anyone in the Probate Division, Family Court or Circuit Clerk's Office that can provide me with legal advice?**

- a. Missouri law prohibits clerks of the court from giving out legal advice. Hopefully the information contained in this packet will answer most of your questions. If you have a question and the answer is not found in this packet, please consult an attorney.

**3. Where do I find the forms to use for filing my petition?**

- a. Packets of the forms needed are available on the St. Louis County Courts website – <http://wp.stlcourtscourts.com/forms>. Look for Guardianship Packet. Most of the forms you would need are included in this packet but there are 2 that have links provided to the specific website for those forms. Follow the included checklist for the items that must be filed to initiate a guardianship of a minor proceeding.
- b. Depending on the situation, ALL of the items required for your appointment as guardian must be filed at the same time. Incomplete filings will not be accepted. More detailed information on what must be filed are contained in No. 15 of this information.

---

<sup>1</sup> All petitions, motions, and other documents must conform to the Missouri Statutes, Missouri Supreme Court Operating Rules, Local Rules of Court, Probate Division and Family Court Administrative Orders. The Missouri Statutes and Missouri Supreme Court Operating Rules may be found in the nearest public library. The Local Rules of Court and the Probate Division and Family Court Administrative Orders may be obtained in the Office of the Circuit Clerk.

**4. Where do I file my petition?**

- a. All petitions for guardianship of a minor are filed with the St. Louis County Probate Division, Issue Department, 105 S. Central Avenue, 5<sup>th</sup> Floor, Clayton, Missouri 63105.

**5. Do I have to live in Missouri to be appointed as guardian?**

- a. It is not necessary that you reside in the State of Missouri and the mere fact that you don't doesn't disqualify you from being appointed as guardian.
- b. The court will take into consideration where you live to determine if you would be able to effectively perform your duties as guardian and has the discretion to not appoint you.

**6. Do I have to have an attorney to file for guardianship or can I proceed Pro Se (without an attorney)?**

- a. Guardianship actions can be extremely complex and require a keen understanding of a highly specialized area of law. For this reason, although not mandatory, it is **STRONGLY** recommended that you seek the assistance of an attorney.
- b. Here are the names and phone numbers for some agencies that may be able to assist you:
  - i. BAMSL Lawyer Referral Service – (314) -621-6681
  - ii. Legal Service of Eastern Missouri – (314) 534-4200
  - iii. Catholic Legal Assistance – (314) 977-3993

**7. Does the minor child in the guardianship proceeding need to have an attorney?**

- a. Yes, but you do not need to secure an attorney for the minor child. The court will appoint an attorney known as a guardian ad litem to represent the best interest of the child.
- b. The guardian ad litem must be present at every proceeding involving the child.
- c. In addition, if any party to the action is a minor (i.e., a natural parent of the child is a minor), a guardian ad litem will be appointed for him or her.

**8. How much does it cost?**

- a. Filing fees are based on certain situations and must be paid at the time of filing of your petition and include a deposit for payment of the guardian ad litem fee.
- b. If petitioning for appointment of multiple minors, only one (1) filing fee is required – costs are waived on the petitions for the other minors.
- c. Fees can be paid by check or money order made payable to St. Louis County Circuit Clerk or by credit/debit card.
- d. Additional costs that are not paid to the court are the fees for the suitability study. More information on this item is contained in No. 15 of this information.
- e. For Missouri Children's Division (MCD) subsidized cases, a request for waiver of prepayment of filing fees must be submitted with the petition.

**f. Schedule of Fees<sup>2</sup>:**

<b>FEE AMOUNT</b>	<b>BREAKDOWN OF FEE</b>	<b>CIRCUMSTANCES</b>
\$250.50	\$100.50 Filing Fee \$150.00 Deposit for Guardian Ad Litem Fee	<ul style="list-style-type: none"> <li>• Both parents consenting to the guardianship and waiving service of summons; or</li> <li>• Both parents are deceased.</li> </ul>
\$500.50 plus Sheriff Fees	\$100.50 Filing Fee \$400.00 Deposit for Guardian Ad Litem Fee \$36.00 per person requiring service by St. Louis County Sheriff	<ul style="list-style-type: none"> <li>• Both parents consenting to the guardianship but not waiving service – 1 or both live in St. Louis County; or</li> <li>• 1 or both parents not consenting and live in St. Louis County.</li> </ul>
\$585.50	\$100.50 Filing Fee \$400.00 Deposit for Guardian Ad Litem Fee \$85.00 for service by publication	<ul style="list-style-type: none"> <li>• 1 or both parents not consenting to the guardianship because where they live is unknown or the identity of the father is unknown.</li> </ul>
\$585.50 plus Sheriff Fees	\$100.50 Filing Fee \$400.00 Deposit for Guardian Ad Litem Fee \$85.00 for service by publication \$36.00 per person requiring service by St. Louis County Sheriff	<ul style="list-style-type: none"> <li>• 1 or both parents not consenting to the guardianship because where they live is unknown or the identity of the father is unknown requiring service by publication; and</li> <li>• 1 or both parents not consenting and live in St. Louis County requiring service by sheriff.</li> </ul>

**9. Who must consent to the guardianship?**

- If possible, the natural parents must consent to the guardianship. If the parents refuse their consent, then the case will be set for a “contested” hearing where each party can present their opposing views in a formal proceeding. It gives the parents of the child the opportunity to oppose, resist or dispute any information provided by you.
- You, as the guardian, or if someone other than you is being appointed guardian, must consent to serve as the guardian.
- If the minor is age 14 or older, then he or she must consent. If the child refuses to consent, this should be noted on the petition and it will be set for a “contested” hearing.
- If the child is in the custody of the Missouri Children’s Division (MCD), then MCD must consent to the appointment of the guardian.

**10. What is a suitability study? How do I make the arrangements for the suitability study?**

- Every guardianship proceeding must have a suitability study done regardless of how long the child has been living with you.

<sup>2</sup> Information on consenting is contained in No. 9 of this information. Information on service by sheriff or publication is contained in No. 14 of this information.

- b. The suitability study is an assessment or appraisal of the home and household of the person asking to be appointed guardian. It involves a representative of a licensed child placement agency making a visit to your home and obtaining background information regarding the family and subject child. The visit usually lasts about 2 hours.
- c. You or your attorney, if represented, is responsible for contacting a licensed child placement agency to perform the suitability study. A list of child placement agencies willing to conduct these studies is attached to the Confirmation of Suitability Study form. You will need to have a representative of the agency complete the form to file with your petition.

**11. What is a background screening? How do I get one?**

- a. A background screening will need to be done for you and **everyone** over the age of 18 living in the household.
- b. You or your attorney, if represented, must complete the Caregiver Background Screening form available on the Missouri State Highway Patrol website – contact information and direct link to form listed below.
- c. Choose Items 1 and 4 in Section A – Type of Screenings; complete the remaining sections and submit the form to Missouri State Highway Patrol and Department of Mental Health at the addresses listed on the Instructions page of the form.
- d. The response takes approximately 6 to 8 weeks so submit your request as quickly as possible so that you will can have it filed at least 10 days prior to the guardianship hearing.
- e. You can contact them by phone at (573) 526-6153 or here is the link directly to the form - <https://www.msHP.dps.missouri.gov/MSHPWeb/Publications/Forms/documents/MO300-1590s.pdf>.

**12. What is a putative father? When should a Missouri putative father registry search be conducted? Does the Putative Father Registry Request need to be filed with the court?**

- a. Putative fathers are alleged fathers of children born out of wedlock.
- b. A request for a search of the putative father registry must be completed if the father's name does not appear on the child's birth certificate or if paternity has not been determined in a court proceeding.
- c. The State of Missouri will only accept an original request form, no copies will be accepted. Form is available online at <http://health.mo.gov/IVrecords/PutativeFatherRegistry.pdf> - or contact them at (573) 751-6387. Original forms may also be obtained from the Probate Division Issue Department. Completed form must be submitted to Missouri Department of Health and Senior Services at the address listed on the form.
- d. The Putative Father Registry Request does not need to be filed with the court. The response to the request must be filed with the court once you receive it.

**13. What happens once I file my petition?**

- a. The packet will be reviewed by the Probate Division Issue Clerks to ensure that all required documents are present. Incomplete packets will be returned to you for completion.
- b. The court will appoint a guardian ad litem for the minor child involved in the guardianship as well as any party that is a minor. The fee for the guardian ad litem is included in your filing fees as set out in the Schedule of Fees on page 3.
- c. All petitions for guardianship of a minor must be set for a court hearing. In most cases, the hearing will be scheduled for the first available date 90 days after the acceptance of the petition. You, as the petitioner, and the minor child are required to be present for this hearing.

- d. The scheduled hearing date is important. You and your attorney, if represented, should make careful note of that date. The court will expect to hear the case on that date and if you are not prepared to proceed, the case could be dismissed without prejudice at your expense.
  - i. Guardianship hearings are scheduled for the second Wednesday of each month in the Family Court.
  - ii. Guardianship hearings are scheduled for Thursdays in the Probate Division. Usually it is the third Thursday of the month but may be changed due to scheduling conflicts.
- e. If all the necessary consents have not been filed, service of notice of the filing of the petition and the hearing must be completed.
- f. Hearings will be conducted in the Probate Division unless there is a pending juvenile case in the St. Louis County Family Court or the Missouri Children’s Division is involved in the well being of the minor. In those instances, the case will be transferred to a specific division in the Family Court. You will be notified by the appropriate court staff of the date and time of the hearing.
- g. Missouri Law, Section 487.090 RSMo, allows that proceedings for the appointment of a guardian of a minor can be transferred from the Probate Division to the Family Court. The Family Court then has jurisdiction over the proceeding until a final judgment is entered. At that time, the case returns to the Probate Division for administration.

**14. Who needs to be served in a guardianship proceeding?**

- a. Service must be obtained on all of the following:
  - i. Birth parents (unless a prior termination of parental rights has been done).
  - ii. Any putative fathers identified by the mother (unless a prior termination of parental rights has been done).
  - iii. The minor child if age 14 or older.
  - iv. Spouse if the minor child is married.
  - v. Person or entity nominated to serve as guardian.
  - vi. Missouri Children’s Division (if the child is in their custody).
  - vii. Any legal guardian.
- b. Any of the above individuals may waive service of the summons. Any waiver of service of summons must be filed at least 30 days prior to the date of the hearing.

**15. Service – Summons by Sheriff (personal) or publication. What are the proper procedures?**

- a. **By Sheriff (personal service)** – if a parent or any other party to the proceeding refuses to sign a consent and/or waiver of service, then a summons is issued and served by the Sheriff in the county where the parent or other party resides. A Request for Personal Service of Process should be submitted at filing or as soon as you know that personal service is required.
  - i. If the party resides in St. Louis County, the staff from either the Probate Division or the Family Court will prepare the summons with a copy of the petition attached and deliver it to the Sheriff for service. As stated in the Schedule of Fees on page 3, the St. Louis County Sheriff’s fee for this is \$36.00 for each person to be served living in St. Louis County and must be paid with the initial filing of the petition for guardianship.
  - ii. If the party resides outside St. Louis County, the staff from either the Probate Division or the Family Court will prepare the summons with a copy of the petition attached and mail the packet to you. It is your responsibility to make arrangements with the sheriff

of the county where the party resides for obtaining service. You should contact that Sheriff's office to get the correct address on where to send the papers and any fees related to having them served.

- b. **Return of Service of Summons** - Once the Sheriff has served the party with the necessary papers, they will prepare a Return of Service which must be filed with the court thereby verifying that the party has been officially notified of the guardianship proceeding.
- c. **Publication** – if a parent or any other party to the proceeding cannot be found or is unknown, it would be impossible to obtain personal service. Service of the summons would need to be done by publication. The laws pertaining to service by publication are provided in sections 506.160 RSMo and 506.140 RSMo.
  - i. Before the court will permit this method of service, you must file an affidavit of due and diligent search. In order to aid you in preparing this, attached to the Application for Order of Publication is a list of suggested inquiries you should make to determine the whereabouts or identity of the party needing service by publication. You must have tried at least four (4) inquiries and that should be detailed in your affidavit which must be notarized.
  - ii. An Application for Order of Publication should be submitted at filing or as soon as you know that publication will be required. You complete the appropriate portions of the form. If the matter is being transferred to the Family Court, it will be necessary to file the Order for Publication of Notice also.
  - iii. Staff from either the Probate Division or the Family Court will process the forms and send to the designated newspaper:
    1. **Missouri Lawyers Media** (St. Louis Countian)  
7700 Bonhomme, Suite 1205, Clayton, Missouri 63105 – (314) 727-6111
    2. **St. Louis County Legal Ledger**  
Pulse Newspaper Publications, 501 E. Armour Blvd., Kansas City, Missouri – (816) 221-2552
  - iv. You are responsible for the cost of publication which varies depending on your choice of newspaper. In order to make sure that publication proceeds smoothly, **this cost has been included in your filing fees** and the court will forward payment to the newspaper. For the breakdown of publication costs, please see the Schedule of Fees on page 3 of this information.
- d. **Proof of Publication** – Publication is for 4 consecutive weeks and after the completion of the last appearance, the newspaper will prepare a Proof of Publication and forward it to the court.
- e. The court **CANNOT** proceed with the guardianship until we have proof that all parties have been served – either personally or by publication.

#### 16. What forms need to be filed?

- a. As stated previously, most of the forms you would need are included in this packet but there are 2 that have links provided in the petition to the specific website for those forms.
- b. **You will need to provide the court with a copy of the child's birth certificate.**
- c. **If one or both of the parents are deceased, you will need to provide the court with a copy of the death certificate(s).**
- d. The originals of all forms must be filed. **YOU MUST BRING ALL NECESSARY FORMS PER THE CHECKLIST AT THE TIME OF FILING – THE COURT CANNOT ACCEPT INCOMPLETE FILINGS.**

- i. **Confidential Case Filing Information Sheet - Probate** – Missouri Supreme Court Operating Rule 4 requires that this form accompany any new case filing. **It must be completely filled out with full social security numbers and birth dates for all parties.** This is especially important if one or more of the parties requires personal service of the summons. Once the information has been entered into the system, this sheet is destroyed by shredding.
- ii. **Petition for the Appointment of Guardian of Minor Child** – Certain information is required on the petition and those requirements are set by Missouri Law – 475.060 and 475.061 RSMo. You must use the form provided in this packet which meets those requirements per administrative order of the court. The reason why the appointment of a guardian is sought must be clearly written in the space provided.

The following circumstances could necessitate the appointment of a guardian:

1. The minor is incapacitated, or
  2. The minor has no living parent, or
  3. The parents or surviving parent are unwilling, unable or unfit to act as guardian, or
  4. The parents or surviving parent has had their parental rights terminated under the Juvenile Code.
- iii. **Exhibit A – Financial Statement** – is a listing of any assets of the minor located in Missouri or any real estate owned by the minor outside the State of Missouri that must be provided to the court.
  - iv. **Exhibit B – Minor – Interested Persons** – is a listing of the names and addresses for certain people relating to the minor as set forth in the petition that must be provided to the court.
  - v. **Exhibit C – Minor – Consent to Appointment** – must be completed for anyone asking to be appointed guardian indicating their consent to serve as guardian of the minor.
  - vi. **Exhibit D - Consent of Parent to Appointment of Guardian** – any living parent must consent to the appointment of a guardian. This form must be completed and be notarized for each parent unless the identity of the father is unknown.
  - vii. **Exhibit E - Waiver of Service of Summons** – any living parent may acknowledge that they are aware of the proceedings and waive the service of summons. This form must be completed and be notarized for any living parent unless the identity of the father is unknown or you don't know where the parent is living.
  - viii. **Exhibit F - Waiver of Service of Summons and Nomination of Proposed Guardian by Minor Child Fourteen (14) Years of Age or Older** – If the child is 14 or older, this form must be completed, signed by the minor and be notarized.
  - ix. **Exhibit G - Consent of Missouri Children's Division to Guardianship** – If MCD is involved in the case, this form must be completed and submitted.
  - x. **Exhibit H - Request for Personal Service of Summons** – If one or both parents do not waive the service of summons and you know where they live, this form must be completed to arrange for service on them.
  - xi. **Exhibit I - Application for Order of Publication in Guardianship Proceedings** - If one or both parents do not waive the service of summons and you do not know the

identity or where they live, this form must be completed to arrange for service on them.

- xii. **Exhibit J - Order for Publication of Notice** – The form is only required when the matter is being transferred to Family Court for handling. It must accompany the Application for Order of Publication in Guardianship Proceedings.
- xiii. **Exhibit K - Confirmation of Petitioner’s Request for Guardianship Suitability Study** – As set out in No. 10 above, you must contact one of the licensed child placement agencies from the list attached to this form to arrange for the suitability study. The agency will need to complete this form, return it to you and you must file it with your petition.
- xiv. **Exhibit L - Financial Statement of Proposed Guardian** – So that the court can determine your ability to support the subject child, this form must be completed and submitted. If you employed, you must attached a copy of your most recent paycheck stub.
- xv. **Request for Search of Putative Father Registry** – As set out in No. 12 above, this form needs to be completed and submitted to the Missouri Department of Health and Senior Services for any child that is born out of wedlock, the father is not named on the birth certificate and no declaration of paternity has been issued. Immediately, upon receiving the response, the original must be filed with the court. Website - <http://health.mo.gov/IVrecords/PutativeFatherRegistry.pdf> - or contact them at (573) 751-6387.
- xvi. **Caregiver Background Screening** – As set out in No. 11 above, this form needs to be completed for you as the petitioner and for anyone over the age of 18 living in the household. Choose Items 1 and 4 in Section A – Type of Screenings; complete the remaining sections; get it notarized and submit the form to Missouri State Highway Patrol and Department of Mental Health at the addresses listed on the Instructions page of the form. It takes a while to get the response back so get it completed and mailed promptly because the response must be filed with the court at least 10 days prior to the guardianship hearing. You can contact the CJIS Division of the Missouri State Highway Patrol by phone at (573) 526-6153 or click this link to the form - <https://www.mshp.dps.missouri.gov/MSHPWeb/Publications/Forms/documents/MO300-1590s.pdf>.

**17. What happens after Letters of Guardianship are granted?**

- a. If the case was heard in the Family Court, after the final judgment and letters have been granted, the case will be reassigned to the Probate Division for administration.
- b. You will be required to file a Guardian’s Annual Report each year that the guardianship remains open. The court will send you a notice each year, along with the form, giving you the due date for the annual report.
- c. **IT IS IMPERATIVE THAT YOU KEEP THE COURT ADVISED OF YOUR CONTACT INFORMATION.** If you move or change your telephone number, please send the court a letter with the case number, name of the minor, your name, new address and/or telephone number(s).

**18. How do you end a guardianship of a minor?**

- a. The authority of a guardian over a minor ends when the minor reaches the age of eighteen (18), the minor dies, the guardianship letters are revoked or the guardianship is terminated.



- b. At the time the minor turns 18, the court will close the file and your authority as guardian will end.
- c. If the minor dies, you would need to send us a letter telling us the minor’s date of death along with a copy of the death certificate. At that time, the court will close the file.
- d. Your letters of guardianship could be revoked if you fail to perform the duties required as guardian.
- e. If a parent is seeking termination of the court-ordered guardianship, they must obtain the Termination of Guardianship packet from the court and pay the necessary fees. Petitions to terminate a guardianship are handled in much the same way as getting guardianship. Please contact the Probate Division Issue Department at (314) 615-2616 prior to filing your petition for further instructions and for any questions.
  - i. The guardian ad litem will be re-appointed to represent the best interests of the minor.
  - ii. The matter must be set for hearing.
  - iii. Consents filed or service on the parties.
- f. Fees for a Petition for Termination of Guardianship are as follows:

FEE AMOUNT	BREAKDOWN OF FEE	CIRCUMSTANCES
\$150.00	\$150.00 Deposit for Guardian Ad Litem Fee	<ul style="list-style-type: none"> <li>• All parties are consenting to the termination.</li> </ul>
\$400.00 plus Sheriff Fees	\$400.00 Deposit for Guardian Ad Litem Fee \$36.00 per person requiring service by St. Louis County Sheriff	<ul style="list-style-type: none"> <li>• All parties are not consenting to the termination; and</li> <li>• 1 or more of the parties live in St. Louis County requiring service by sheriff.</li> </ul>