

Guardianships for Children

An excerpt from the Community Education booklet *Family Law in Oregon*

What is a guardian?

A guardian is an adult who is appointed by a judge to care for an unmarried person under 18 years old. A guardian has the responsibilities of a custodial parent, except that a guardian does not have a legal obligation to support the child from the guardian's own income. A guardian may consent to marriage or adoption of the child. The child is known as a "protected person" or "ward."

When is a guardian appointed?

A guardian is appointed by a judge when the parents of a child cannot or will not take care of the child. The Child Welfare Program of the Department of Human Services (DHS) may be appointed as the guardian. Relatives or other adults are often guardians, too.

What is the difference between a guardianship and a conservatorship?

In a conservatorship, a conservator is appointed to handle only the financial affairs or property of a person under 18 years old. A guardian can handle business affairs, but a guardian is also responsible for taking care of a child's other needs.

How do I get a guardianship for a child?

You will need a lawyer to ask a judge to appoint a guardian. Parents and the people taking care of the child must be told when someone is trying to get a guardian appointed. A judge will order a guardianship without the parents' consent only in limited circumstances. This area of the law is complicated. Consult an attorney for up-to-date advice.

There are special laws about guardianships of Native American children. You should talk to a lawyer who knows about these laws.

Can I give another person temporary parental authority over my child?

Yes. You can give a power of attorney to another person so that he or she has the temporary authority to take care of your child, to consent to medical care for the child, to enroll the child in school, and to perform other parental responsibilities. You cannot give temporary authority to consent to marriage or adoption of the child. To give someone a power of attorney, you will need a power of attorney form, which you can get from most stationery stores. A sample form is available at www.oregonlawhelp.org. Fill out the form and sign it in front of a notary public. You do not have to go to court. Give the original form to the person

caring for your child and keep a copy for your records.

In most cases, a power of attorney lasts no longer than six months, but you can give a school a power of attorney that lasts up to 12 months.

If you are in the National Guard or U.S. Armed Forces Reserves and called to active duty, you can give a power of attorney that lasts for the time you are on active duty plus 30 days. Some special rules apply to powers of attorney in these situations.

You can end any power of attorney at any time by writing, dating, and signing a statement that says you are "revoking the power of attorney given on (date)." It's a good idea to get this statement notarized. Give the statement to the person you named in the power of attorney form.

What can I do to stop a guardianship?

If you are a parent of the child, or have been taking care of the child, you should be given notice that a petition for guardianship has been filed. The notice should tell you that you must give oral (spoken) or written reasons why you think there should not be a guardian appointed. Read the notice carefully. You usually have to go to the courthouse to give your objections in person, or turn in your written answer to the court within 15 days of getting the court papers (20 days if interstate issues are involved).

You have a right to go to the hearing to tell the judge why a guardian should not be appointed. If you are the parent, the person wanting guardianship must prove that there is some very good reason for the guardianship. Because the law in this area is complicated, it is a very good idea to talk to an attorney for advice.

6-10