

**\*\*\*\*INSTRUCTIONS FOR SELF-REPRESENTED PETITIONERS\*\*\*\***

**Petition for Appointment  
of Guardian(s) of the Person and / or Estate of a Minor**

***PLEASE READ THE FOLLOWING INSTRUCTIONS CAREFULLY. IF YOU DO NOT PROVIDE THE REQUIRED INFORMATION, YOUR PETITION MAY BE DENIED OR YOUR HEARING MAY BE DELAYED.***

**COMPLETING THE PETITION**

- A Sample Petition for Guardianship of a Minor with Attachments and Certificate of Service ("Sample Petition") is available on our website at: [www.eriecountypa.gov/departments/clerk-of-records/clerk-of-orphans-court](http://www.eriecountypa.gov/departments/clerk-of-records/clerk-of-orphans-court). You may print or download the Sample Petition and complete it manually. **YOU MUST COMPLETE THE FORM AND ALL ATTACHMENTS / EXHIBITS IN THEIR ENTIRETY.** If you create your own form, it must be substantially similar to the online Sample Petition. Petitions containing incomplete information may be rejected. If you have legal questions pertaining to completing your petition, you must consult an attorney. Paper copies of online forms are available at the Clerk of Orphans' Court / Register of Wills office.
- If you are petitioning for guardianship of more than one minor, you must file separate petitions for each minor.

**OBTAINING A HEARING DATE**

- Once your petition(s) and all attachments are fully completed and signed, take the original petition and attachments to the Office of Court Administration on the second floor of the courthouse (Room #205) to obtain a hearing date. Court Administration will make copies for you to serve on all interested parties, including the minor's biological and/or adoptive parents, any current guardian(s) of the minor, and any other person who has or shares physical or legal custody of the minor.
- Once you have obtained a hearing date from Court Administration, bring the original and copies of your fully completed petition, including the signed and completed Scheduling Order and Notice of Hearing, to the Clerk of Orphans' Court / Register of Wills office on the first floor of the courthouse (Room #122) for filing. You must pay the following filing fees for EACH petition:

\$50.00	Clerk of Orphans' Court Filing Fee
\$40.25	Judicial Computer Processing (JCP) Fee
<u>\$ 5.00</u>	Automation Fee
<b>\$95.25</b>	<b>TOTAL FEES</b>

***\*\*PLEASE NOTE: YOUR PETITION WILL NOT MOVE FORWARD UNLESS IT IS FILED AT THE CLERK OF ORPHANS' COURT / REGISTER OF WILLS OFFICE AFTER YOU OBTAIN A SCHEDULING ORDER AND NOTICE OF HEARING FROM COURT ADMINISTRATION\*\****

## **SERVICE OF YOUR PETITION & SCHEDULING ORDER AND NOTICE OF HEARING**

- After you obtain your hearing date and you have filed your petition and the Scheduling Order and Notice of Hearing with the Clerk of Orphans' Court / Register of Wills office, you must serve copies of both on all interested parties, including the minor's biological and/or adoptive parents, any current guardian(s) of the minor, and any other person who has or shares physical or legal custody of the minor. **THIS MUST BE DONE AT LEAST 20 DAYS PRIOR TO THE HEARING DATE.**
- You may choose one of the following options to satisfy the service requirement:

1. Send one copy to each interested party by certified mail, return receipt requested and restricted delivery, and send a second copy to each interested party by regular mail. When the Post Office sends you the return receipt signed by the person you intended to serve, you must attach it to a completed Certificate of Service using the form attached hereto and also included with the Sample Petition, or a substantially similar form, and file it with the Clerk of Orphans' Court / Register of Wills office. Also keep a copy of the Certificate of Service with attached return receipt to bring to the hearing so you can prove that you gave proper notice. If the regular mail is returned to you by the Post Office, you must also bring that to the hearing;

or

2. In the alternative, you may have an adult, who is not the petitioner or proposed guardian, hand a copy of your petition and the Scheduling Order and Notice of Hearing to the interested party(ies). If you choose to complete service in this manner, you must have the person who provided personal service complete and sign the Certificate of Service form attached hereto and also included with the Sample Petition, or a substantially similar form, and file it with the Clerk of Orphans' Court / Register of Wills office. The Certificate of Service form must be in the form of an affidavit, or contain a statement that it was signed subject to the penalties of 18 Pa.C.S. 4904 relating to unsworn falsification to authorities. It must also state the date, time, place, manner of service, identity of the person served, and any other facts the court may need to determine if service was properly made. You should keep a copy of the completed Certificate of Service to bring to the hearing so you can prove you gave proper notice of the petition and hearing.

***\*\*PLEASE NOTE: TO PREVENT DELAY OF YOUR HEARING YOU SHOULD FILE YOUR CERTIFICATE OF SERVICE WITHIN TEN (10) DAYS OF COMPLETION OF SERVICE. IF YOU DO NOT FILE YOUR CERTIFICATE OF SERVICE PRIOR TO YOUR HEARING DATE, YOU MUST BRING THE ORIGINAL TO THE HEARING OR YOUR HEARING MAY BE POSTPONED.\*\****

## **GUARDIANSHIP HEARING**

- Please arrive on time for your scheduled hearing.
- If the minor is 14 years of age or older, they must be present at the hearing.
- If the guardianship is granted, certified copies of that order (\$1.25 each) or a Guardianship Certificate (\$5.00 each) confirming that you are the guardian of the minor are available through the Clerk of Orphans' Court / Register of Wills office.

## **EMERGENCY GUARDIANSHIP**

- If you are seeking emergency guardianship, you must provide the information required at Part A of the online Sample Petition in your petition, stating in detail the emergency basis for your request. To constitute an emergency, you must set forth sufficient facts to show that failure to appoint an emergency guardian is likely to result in immediate and irreparable harm to the person and/or estate of the minor.

- Emergency guardianship petitions are presented in Family / Orphans' Division Motion Court. If you are seeking emergency guardianship, you must complete a Family / Orphans' Division Motion Cover Sheet and Notice (attached to the Sample Petition), stating whether and in what manner you provided notice of your intention to appear in Motion Court to all interested parties, including the minor's biological and/or adoptive parents, any current guardian(s) of the minor, and any other person who has or shares physical or legal custody of the minor.

***\*\*PLEASE NOTE: MOST CASES ARE NOT EMERGENCIES. NON-EMERGENCY PETITIONS MUST BE TAKEN TO COURT ADMINISTRATION TO OBTAIN A SCHEDULING ORDER AND NOTICE OF HEARING.\*\****

# **Guardianship of a Minor Frequently Asked Questions**

*(These are general answers to the most common questions. For legal advice, you must consult an attorney)*

## **I signed and filed the Guardianship papers at the Courthouse – am I the Minor's guardian now?**

**No!** You need a Court Order to become the official guardian for a Minor. **You will have to go to a hearing first.** The Judge will have to decide if you will be a good guardian for the Minor. If so, then the Judge will sign a Court Order which says you are the guardian. That's when you will officially be the guardian for the Minor.

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## **What will be my legal responsibilities?**

You will be acting as if you are the Minor's parent. This means that you will be responsible for their education, medical care, and general well-being. You will have to pay the cost for caring for them, but you can apply for benefits (such as Social Security or welfare) which might help. The Judge might also give you specific responsibilities in the guardianship order. Be sure you read the order carefully.

## **How long will I be the Minor's guardian?**

Until the Minor turns 18, or the guardianship is revoked by Order of Court. If you are accused of not being a

good guardian, the accuser may file a petition to revoke or modify your Guardianship Order and a judge will hold a hearing.

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## **What if something comes up and I can't be the guardian anymore?**

If you are unable or unwilling to continue to serve as guardian, you must go back to court so the judge can appoint someone new. You cannot pick a new guardian for the Minor on your own. If the Minor needs a new guardian, go back to the Orphans' Court Clerk / Register of Wills office at the Erie County Courthouse and they will help you with the next step.

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## **Will I be able to enroll the Minor in school and talk to their teachers?**

Yes. Schools may ask for a certified copy of the Guardianship Order. After the Judge appoints you as the guardian, you can get one at the Orphans' Court Clerk / Register of Wills office where you filed the initial guardianship papers. You will have to pay a small fee for the certified copy.

**What about medical care for the Minor?**

When you take the Minor to a healthcare provider, you should take the Guardianship Order with you to show you are legally responsible for the Minor. It's best if you carry a certified copy of the Guardianship Order with you at all times.

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**The Minor's parent has been getting money for the Minor – shouldn't that come to me now?**

Yes. Once you are appointed guardian, if the Minor receives Social Security or other benefits (like welfare), you should be the one getting the checks. If you do not get the money, take the guardianship order to the Social Security, welfare or other benefit office and apply to have the checks sent to you as legal guardian. **Remember: This money is to be used ONLY to pay the expenses of caring for the Minor.**

\*

**Someone told me I'll still need a "custody order" – is that true?**

**No.** Someone like a welfare worker or a doctor might tell you they need to see a custody order in order to talk with you. A Guardianship Order is as good as a custody order. If you have a certified copy of the Guardianship Order, you shouldn't have any problems.

**What if the parents call me and want to visit the Minor?**

When you become guardian of the Minor, it will be up to you to decide what's best for the Minor as long as it is permitted by the Guardianship Order. For example, if the Guardianship Order says the parents are not permitted to see the Minor, you **MUST** do what the Guardianship Order says. If the Guardianship Order has no restriction on visitation, it is up to you whether you allow the parents to visit with the Minor. If you refuse, the parents may go to custody court to ask a judge for visits. Be sure the custody court is aware of the Guardianship Order and take a copy of it with you to any hearings.

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**What if the Minor is in an accident or gets injured?**

If the Minor is hurt in an accident (that's not your fault), you have the **right to sue** that person who caused the accident, on the Minor's behalf. Go see a private lawyer if this happens. The court might get involved to be sure the Minor receives a fair amount of money.

**IMPORTANT!**

**The law often changes.  
Each case is different.  
This pamphlet is meant to give you general information and NOT to give you specific legal advice.  
Always consult with a lawyer if you have legal questions.**

IN RE: \_\_\_\_\_ : IN THE COURT OF COMMON PLEAS  
 \_\_\_\_\_ : OF ERIE COUNTY, PENNSYLVANIA  
 a Minor : ORPHANS' COURT DIVISION  
 : NO.

**CERTIFICATE OF SERVICE**

Petitioner(s) hereby certify that a copy of the Petition for Appointment of Guardian(s) of the Person and/or Estate of a Minor **AND** the Scheduling Order and Notice of Hearing were served on the following persons:

Name of Person Served:	Address where Served:	Date of Service:
_____		
Manner of Service (ex. personal service or certified mail): _____		

Name of Person Served:	Address where Served:	Date of Service:
_____		
Manner of Service (ex. personal service or certified mail): _____		

Name of Person Served:	Address where Served:	Date of Service:
_____		
Manner of Service (ex. personal service or certified mail): _____		

**All Proofs of Service (ex. certified mail receipts, constable affidavit, statement of adult who provided personal service) are attached to this Certificate of Service.**

I hereby verify that the facts stated herein are true and correct to the best of my knowledge, information and belief. I understand that any false statements made herein are subject to the penalties of 18 Pa.C.S.A. §4904, relating to unsworn falsification to authorities.

Date: \_\_\_\_\_ \_\_\_\_\_  
*(signature - Petitioner 1)*

Date: \_\_\_\_\_ \_\_\_\_\_  
*(signature - Petitioner 2)*

Date: \_\_\_\_\_ \_\_\_\_\_  
*(signature of adult who completed personal service, if personal service used instead of mail)*