

GUARDIANSHIP FOR IMMIGRANT FAMILIES - ATTORNEY INSTRUCTIONS

1. INTAKE

Complete CVLS intake form with client. Do your best to get all information because that will help you later when completing legal forms.

- a. If the clients want information about something other than their children, talk to a CVLS staff person. We can advise on the spot or follow up with the client later.
- b. Keep all intake forms and give them to CVLS staff at the end of the clinic.
- c. If both parents are present, include information from both on one intake form.

2. DISCLAIMER

Go over Limited Representation Disclaimer form with client. If Client's primary language is Spanish, give them the form in Spanish to read. Once you're sure they understand it, ask them to sign it on either the English or Spanish side, date it and give it to you.

- a. Keep all signed intake forms and return them to CVLS staff at the end of the clinic. You may give a copy to the client if the client wants one.
- b. If the client does not want to sign the form, we cannot help them at that clinic. They can contact CVLS' office on the next business day to see if they are eligible for free legal services from us.
- c. Both parents can sign one disclaimer form.

3. BEFORE YOU PROCEED WITH A GUARDIANSHIP

Find out.

- a. Is the child the subject of a custody or guardianship order, whether from IL or another state or country?
- b. Is the child in the possession of someone other than a parent?
- c. Is child is in the possession of one parent and the other parent is not in agreement with the proposed guardianship?
- d. Is the child undocumented?

If the answer to any of these questions is yes, talk to a CVLS staff attorney before proceeding.

4. PROSPECTIVE GUARDIAN

If the parents want to make arrangements for someone else to care for their children if they are detained and/or deported, find out:

- a. Is the proposed guardian a legal resident or U.S. citizen? If yes, talk to the parents about a standby guardianship. Remember, this requires that the parents and potential standby guardian appear in court at least once.
- b. If the proposed guardian is not a legal resident or a citizen, or if the parents do not want to go to court, they will have to use a short term guardianship. This does not require court action.

If the parents want a standby guardianship through the court, talk to a CVLS staff attorney. In the meantime, help them execute a short-term guardianship today. The short-term guardianship will give them a plan for now until the standby guardianship can be filed with the courts.

5. **SHORT-TERM GUARDIANSHIP**

Most of the people you see today will want a short-term guardianship. To be effective, the form must be completed and signed in English. However, because many of the clients speak and read Spanish, they can also read and sign the form in Spanish in order to know exactly what they are signing.

Help them complete the following sections:

- a. Effective Date (Number 3), check off "Other" and write, "When I am detained or deported".
- b. Termination (Number 4), select the first box: When I state in writing that I am willing and able to carry out the day-to-day child care decisions concerning the child. If parents do not revoke the short-term guardianship, it will terminate, by operation of law, 365 days AFTER the date the parent(s) is detained or deported. It can be renewed at that time if the parent(s) wish the guardianship to continue.
- c. You must have two adult witnesses sign and date the form when the parent(s) sign. You can use any of the helpers or CVLS staff present for the clinic. The parents, the proposed guardian, and the attorney helping prepare the form cannot serve as witnesses, but other volunteer attorneys can. The short-term guardian does not need to be present. S/He can sign later, but make sure the parents understand that the guardianship is not effective until the guardian signs it.
- d. Both parents must sign the form. If both parents are not present, have the one parent get the other one's signature later if at all possible. If a parent is signing alone and does not know where the other parent is or wants no contact with that parent, ensure client understands that the guardianship will not be effective if challenged by the other parent.
- e. Remember, either parent can terminate this guardianship at any time by communicating that decision to the short term guardian.

6. **WHEN YOU'RE DONE**

- a. Give your clients the original short-term guardianship form. Remind them to get the signature of the short-term guardian and, if necessary, the other parent.
- b. If your clients might want their US-born children to join them in their home country later, tell them they should obtain US passports for their children ASAP.
- c. Tell them to make copies after they leave. Both parents should have a copy. The short-term guardian needs a copy with all signatures as well. They may want to give copies to other relatives, older children and their children's schools so everyone knows who will take care of children if necessary.
- d. Give all intake and disclaimer forms to CVLS staff at the end of the event.

**THANK YOU FOR VOLUNTEERING AT TODAY'S CLINIC.
YOU HELPED MAKE A VERY DIFFICULT TIME
A LITTLE EASIER FOR A LOT OF PEOPLE.**

**EQUAL ACCESS TO JUSTICE IS EVERYONE'S FIGHT.
THANK YOU FOR FIGHTING FOR IT.**