

**GUARDIANSHIP OF A MINOR
IN THE CIRCUIT COURT
OF COOK COUNTY**

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ABOUT THE AUTHORS

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STATUTORY REFERENCE:

755 ILCS 5/11-1 to 11-18

I. WHEN A GUARDIAN MAY BE APPOINTED

Illinois law provides that the court may appoint a guardian of the person or estate, or both, of a minor "whenever it appears necessary or convenient." Most CVLS guardianship clients seek our services because children have been left in their care and they now need a court order to enroll their wards in school, authorize medical care, or obtain public assistance. Now and then our client is a parent who wishes to petition the court to have someone appointed guardian of his or her minor children.

In Cook County, civil minor guardianships of the person are assigned to the Probate Division, and heard in Room 1806 of the Richard J. Daley Civic Center. If the Illinois Department of Children and Family Services (DCFS) has an open case on the minor, stop reading here. The Probate Court will not hear the case. Your client belongs in Juvenile Court.

If the parents of the minor are divorced, a Probate guardianship is generally not appropriate. The client will need to petition for a custody modification in the Domestic Relations Division. Likewise, if there has been a paternity/parentage order entered. There are exceptions to this rule. Please call a CVLS staff attorney with the facts of your case.

II. WHERE AN ACTION MAY BE FILED

If the minor is an Illinois resident, the Petition for Guardianship must be filed in the county where the minor resides. If the minor is not an Illinois resident, then the Petition must be filed in the county where the minor's real or personal estate is located. (755 ILCS 5/11-6)

III. TYPES OF GUARDIANS

A. GUARDIAN OF THE PERSON

A person appointed guardian of the person has the "custody, nurture and tuition and shall provide education of the minor." The guardian must ensure that the child receives proper medical care, an education, and is properly fed, housed and clothed. A guardianship of the person is used when the minor owns no property and has no income. Maintenance income such as public aid, Supplemental Security Income (SSI), or Social Security does not count--a guardianship of the person is still appropriate. Most CVLS guardianship clients need this kind of guardianship.

If a client tells you that the minor will soon be getting a personal injury recovery/insurance proceeds and says that "in the meanwhile" s/he needs guardianship, do not file for her to become guardian of the person. While the funds have not yet been recovered, they are anticipated, and that

means that the client must become guardian of the estate and person. Read on and you'll see why CVLS rarely accepts such cases.

B. GUARDIAN OF THE ESTATE

A person appointed guardian of the estate has the care, management, and investment of property owned by the minor. She or he must manage the estate frugally to preserve as much as possible for the child when he reaches majority. This guardianship is usually necessary if the minor owns property such as bank accounts, insurance proceeds or real estate.

CVLS Case Acceptance Policy: Chicago Volunteer Legal Services Foundation rarely accepts estate cases because they are usually fee-generating. Furthermore, guardians of the estate are required to file an annual financial account with the Court. Most of our clients find it difficult to maintain adequate records. Once you file your appearance on behalf of a guardian of an estate, you are that person's attorney until the court gives you leave to withdraw. In other words, you will be responsible for that case for years, unless you petition and are given permission to withdraw as counsel.

Exception: Chicago Volunteer Legal Services Foundation may handle the guardianship of a minor's estate if:

- the minor's estate is a bank account of \$15,000 or less; OR
- the minor's estate is the residence in which he or she lives.

Caution: Even if the case falls within one of the above exceptions, **DO NOT ACCEPT** it without first discussing the facts with a CVLS staff lawyer.

C. GUARDIAN OF THE PERSON AND ESTATE

This combines the foregoing two guardianships. **DO NOT ACCEPT** such a case without first discussing the facts with a CVLS staff lawyer.

D. STAND-BY GUARDIAN AND SHORT-TERM GUARDIAN

Stand-by guardianship, described at 755 ILCS 5/11-5.3, basically permits a parent to designate a person to become guardian of their child upon the occurrence of a certain condition (eg., death, losing consciousness or ability to speak). Section 5/11-8.1 gives specific instructions for petitioning for stand-by guardianship. Short-term guardianship is described at 5/11-5.4. It allows a parent to appoint, for a period of 60 days or less, a person to become guardian of their child under certain stated conditions.

Stand-by and short-term guardianships are covered in a separate chapter.

IV. WHO MAY ACT AS GUARDIAN

A. STATUTORY REQUIREMENTS

A guardian of the person must be:

- a person who has attained the age of 18 years
- a resident of the United States
- not of unsound mind, and
- not an adjudged disabled person, and
- not convicted of a felony.

B. REFINEMENTS ON THE STATUTE AND OTHER REQUIREMENTS OF OUR COURT

Residency & Immigration Status: The statute's residency requirement is not an issue of immigration status, but simply means that the guardian and minor have to live in the U.S. for jurisdictional purposes. However, the current court also views residency in terms of stability—a person seeking to be appointed the guardian of a minor must be a legal U.S. resident and not subject to deportation. If the petitioner is undocumented, don't file for guardianship. The minor's immigration status is irrelevant.

Photo Identification: Again, citing stability as a basis, the court expects anyone petitioning to be appointed guardian of a minor to have valid *Illinois* identification. Statutory qualifications will be to no avail if the potential guardian cannot produce an Illinois drivers license or i.d. The card should have the client's current, or at least very recent, address. *Do not file a case until your client has the proper identification.* An adult with no proper identification is not an appropriate guardian. A minor, 14 or older, must also have a photo i.d. Every public and private city and suburban high school issues them. Minors who are recently arrived from foreign countries may not have school i.d., but should have a passport or some form of photo identification. If the minor has nothing, call CVLS before filing your case.

Client Once Found "Indicated" for Abuse or Neglect by DCFS: The court will not appoint as guardian of the person anyone the court has determined has either caused or substantially contributed to the child becoming a neglected or abused minor. The judge will inquire as to the circumstances of the finding. Findings issued more than ten years ago may not be disqualifying, particularly if the client was very young. More recent/severe charges may exclude guardianship. If your client has ever been "indicated", discuss the case with a CVLS attorney before proceeding.

Convicted Felons: Advise your client that the court will conduct a background check for felony convictions before guardianship is granted. The court may, in some cases, allow a person convicted of a felony to become a guardian. In the case of *Estate of Marjorie Roy v. Luther Roy*, 637 N.E. 2d 1228 (3rd Dist. 1994) a husband of 43 years was denied appointment as his disabled wife's guardian because of a 36 year old felony conviction. The Appellate Court held that the trial court should have held a hearing to determine if the appointment would be in the ward's best interest despite the conviction. The *Roy* holding has been extended to appointments for minor guardianships. However, the case is used sparingly, usually only when the conviction is very old, the prospective guardian is a close relation to the child and there is no one else who can become guardian. If your potential client has a felony conviction, do not proceed without first discussing it with a CVLS attorney.

School Enrollment: The court will inquire as to the child's education. Based on our experience, we suggest that if the child is 14 years or older, you verify enrollment before filing any pleadings. If the client has been the caretaker of the minor for a significant period of time without enrolling the child in school, his/her petition may well be denied. On the other hand, the client may have recently taken in the child and tried to enroll the minor in school, only to be told that guardianship is required. Ordinarily, the Chicago Public School system will permit enrollment upon receipt of a letter by an attorney stating that guardianship proceedings are pending. If not, and your client presents himself/herself as seriously interested in education, non-enrollment will not bar guardianship.

Birth Certificates: Your client is going to need an original or certified copy when this case is heard. Photocopies do not do it. See our **Referral Guide** on how to obtain birth certificates. However, access to birth certificates is limited. If the client is not a parent, s/he will require a court order. A sample copy of the form is included in this chapter. Present the form to the Clerk in 1806 on the day you file your Petition. The court will sign an order mandating release of this document to you or your client.

Death Certificates: If a parent is deceased, the judge will require a certified copy of the death certificate. Again, see our **Referral Guide** for how to get one.

Minor's Parents Likely to Contest: Parents have superior rights to custody of their children, (755 ILCS 5/11-7). A non-parent must have standing to petition for guardianship. That means that s/he is eligible to be guardian only if the child is not in the physical possession of either parent. (750 ILCS 5/601(b)(2).) There is extensive case law on what is "physical possession" in the context of this statute. The "Baby Richard" case

(Petition of Kirchner, 164 Ill.2d 468, 208 Ill.Dec. 268, 649 N.E.2d 324 (1995)) provides the most definitive explanation to date. Basically, the law requires that the child's parents have voluntarily relinquished custody of the child to the petitioning non-parent. Voluntarily relinquishment can take many forms and include many factors. Time alone is not sufficient to establish it, but the longer a child stays in the possession of a non-parent, the easier it is to convince a court that the parent voluntarily relinquished the child. The Probate Act has adopted the standing requirement of the Illinois Marriage and Dissolution of Marriage Act, (750 ILCS 5/601), (*Estate of Newsome, 173 Ill.App.3d 376, 123 Ill.Dec.61, 527 N.E.2d 524 (4th Dist. 1988)*).

If you are thinking about representing a non-parent in a potential contest against a parent, contact CVLS before taking the case. If your client loses on standing, s/he may have irreparably harmed his/her chances for continuing contact with the minor by going to court. Sometimes, discretion is the better part of valor. Discuss it with us before you file.

If standing is not an issue, the court will make a decision based on the best interests of the child. Best interests is not a factor unless all parties have standing to seek guardianship.

C. BEST INTERESTS AND CVLS

At CVLS however, "best interests" outweigh the desires, and even legal rights, of the biological parents when deciding whether or not to accept a case. So, if

- the child does not live with or has only briefly lived with the client (whether prospective guardian or parent), OR
- you have reservations about the client's concern for the child, or doubt the story in any way for whatever reason

then, DO NOT ACCEPT the case without further investigation and discussion with a CVLS staff attorney. You have the right to request documentation from your potential client and/or to interview others persons to verify the client's statements.

D. PERMANANCY

Clients must understand that if granted guardianship, they will be responsible for the health, education, and welfare of this minor until discharged by the court. If the client has an expectation that guardianship will produce extra income for the household, s/he must be told that failure by IDPA or DCFS to produce same will not invalidate the guardianship. Once DCFS makes one of its informal "placements" and directs the

caretaker to a Probate Court guardianship, it will not take the child back, even if the minor is an out-of-control, psychotic drug dealer who is bringing violent criminals into the guardian's home. In fact, DCFS will warn the guardian that any attempted lock-out will result in criminal charges against the guardian. We cannot emphasize enough how much *you* must emphasize the seriousness of this undertaking. If you have a guardian who wants "out" without being prosecuted, call a CVLS staff attorney. There are limited escape routes and we can tell you about them.

V. MINOR DEFINED

A minor is a person who has not attained the age of 18 years. A minor 14 years of age or older must nominate the guardian of the person and of the estate, subject to the approval of the court. The court may appoint a guardian without the minor's nomination if:

- the minor's nominee is not approved by the court, or
- the minor resides outside Illinois, or
- after notice, the minor fails to nominate a guardian.

VI. HOW TO DEAL WITH CLIENTS WHO HAVE SPECIAL CIRCUMSTANCES

A. DCFS INVOLVEMENT

Many, if not most, of the children involved in CVLS guardianship have been, at least in layman's terms, "neglected" or "abused" by their parents. In theory, all neglected or abused children should be processed through Juvenile Court by DCFS. Probate Court would then have no jurisdiction over these children.

Actually, DCFS **does not** open a case on children if a relative or friend takes them in. In fact, DCFS caseworkers and social workers in contract agencies such as Catholic Charities, routinely divert to Probate Court any case where a person, whether or not related, has taken abused or neglected children into their home. While some of these cases are appropriate for Probate Court, many are not. Again, question potential guardians carefully. If you hear of (or even suspect) any DCFS involvement, contact CVLS before proceeding.

B. UNKNOWN FATHERS

Once upon a time (and in a previous CVLS Manual), we told you that you would need to send notice only to putative fathers whose names were on the minor's birth certificate or whose offspring bore the father's surname.

Today the court expects notice to be sent to the putative father, period! It doesn't matter if he is not named on the birth certificate. As long as his identity is known (or even suspected), you must give him notice. You can count on the court to conduct a serious inquiry into the identity of the father any time one has not been named and given notice. You must not only inquire but *probe* as to the identity of dad. Most mothers, unless they are rape victims or street addicts, do know the identity of their children's father. They also know a last known address, even if it is vague and remote. For a mother to claim to have no idea who the father of one child is strains the credulity of the court. To ask a judge to believe that this is so for more than one child is asking a lot. You must do more than *ask* your client about the father, you must *probe*. If the client is bringing in a consent from mother, that means that s/he talks to mother. They had better talk about who the father is. You will probably get a lot better response to your queries if you stress that notice to dad does not mean that if he merely rolls into court he will defeat mother's wishes and the guardian's Petition. Even given our case law on the superior rights of parents, dad is going nowhere if he's truly been an absentee.

C. ARMED FORCES ENLISTMENT

Mothers may not enlist in the Armed Forces unless someone has been appointed guardian for their minor children. If you have such a client, do not file a Petition until she obtains written proof from her recruiting officer that she has been accepted by the military pending the guardianship. The Court may not grant the guardianship without this proof.

D. PARENT & GUARDIAN UNDER THE SAME ROOF

Sometimes, the mother, her child(ren), and the caretaker who wants to be appointed guardian all live together. Usually, the mother is a teenager and/or an addict. The Court will not ordinarily grant guardianship if the mother will continue to reside with the child.

Exception: If an adult mother is seriously developmentally disabled, the caretaker or someone else may successfully petition Probate Court to appoint a guardian for her. Then, the caretaker can petition for guardianship of the child. The Court may also allow guardianship in a shared living situation when the mother is very young (under 16) or less seriously disabled. Call a CVLS staff attorney before proceeding on any such case.

E. OVERBURDENED CLIENTS

In its efforts to reduce caseload, DCFS often places children with unsuitable potential guardians with the warning that if s/he does not petition in Probate Court, the child will be placed into “The System” and the mother will be prosecuted. Regardless of the good intentions of these caretakers, the court may not approve a 19 year-old mother of three assuming guardianship of four young wards, even if they are the client’s siblings. Likewise, the 74 year-old grandmother with severe health problems. Finally, the court can be expected to extensively and critically question a non-relative guardian who proposes to take responsibility for teenagers. Experience has shown that once these children reach a comfort level in their new home, they are inclined to “act out” – often to the degree that the guardian demands their removal. It is not in the best interests of your client – to say nothing of the best interests of the minor – to ask for responsibilities he or she cannot fulfill. Advise clients that if the court determines that they are really not appropriate guardians and there are not any other voluntary guardians on the horizon, Probate may transfer the case to Juvenile. Please call a CVLS staff attorney to review the facts of any troublesome case.

F. PUTATIVE FATHERS (OR HIS WIFE/GIRLFRIEND)

Men who claim to be the minor’s father, regardless of whether their name is on the birth certificate or whether the child bears their surname, should ordinarily be advised to file for a parentage determination, rather than for a Probate guardianship. If you are not going to handle the parentage case, direct the client to the Office of the State’s Attorney at 28 North Clark Street. These cases are heard at 32 West Randolph Street, 14th floor. A parentage order gives father real and enduring rights to custody/visitation, rather than the possessory rights of guardianship. Felony convictions, regardless of when or for what, do not preclude a custody order from parentage court. It is not appropriate for dad’s wife or girlfriend to petition for guardianship when wife/girlfriend, dad, and the minor are living under one roof as a family unit. A guardianship is granted because the minor’s parents cannot care for the child. Here, dad is a caretaker. Most of these requests arise where dad has not legally established paternity, has heard that his felony conviction will bar guardianship, and does not know that parentage court is now dad-friendly. Sometimes the reason is to get the child under the girlfriend’s insurance policy. Probate Court will not accept this as a basis for guardianship when dad is living in the household. The client should be referred to Illinois KidCare, which provides excellent medical coverage, even if there is employment income in the household. See our **Referral Guide** for specifics. If the reason for girlfriend seeking guardianship is that dad is disabled and she takes the child to medical appointments and the like, the answer may be a Power of Attorney. There

are endless variations on this problem and some exceptions to the rules. Call a CVLS staff attorney with your facts and we'll give you an answer.

G. SCHOOLS & NEIGHBORHOODS

The court will not approve guardianship when the purpose is to enroll the child in a better school or school district or to situate the child in a safer neighborhood. These are acceptable results of, but not reasons for, guardianship.

VII. WHAT THE CLIENT REALLY NEEDS

Sometimes clients ask for an adoption when they really want a guardianship, and vice versa. An adoption irrevocably terminates parental rights. A guardianship does not. A guardianship takes less time to complete than an adoption and the court costs are cheaper. Guardianship is often used as an immediate solution while the client raises the court costs or obtains documentation necessary for adoption. Powers of Attorney may also resolve some problems without a guardianship. If you are unsure what is best for the client, call a CVLS staff attorney.

VIII. REQUIRED DOCUMENTS

Guardianship pleadings are form pleadings. You may use forms available from the clerk in Room 1202 of the Daley Center or computer-generated forms. Samples follow this text. Do not deviate from these forms without consulting CVLS staff.

For a number of years, the court required a separate case be filed for each minor. The rule now is that a client petitioning for guardianship of the person of siblings and half-siblings may include them all in the same case. However, no more than three children should be listed on each petition. If your case involves four or more children, put the "overflow" onto another petition, but use the same case number. In cases with multiple children, the court requires a separate order for each child, however, each order will have the same case number. You cannot put multiple estates into one case—when an estate is involved, each child gets his/her own case.

Before filing the case, prepare the following:

A. PETITION FOR GUARDIAN OF MINOR (CCP 0393)

The Petition must be completely filled out and signed by the Petitioner, who will be either the person who wants to be appointed guardian or a

parent who wants someone to be guardian of their child. The Petitioner will have to appear in court.

On the first line of the form (which is unnumbered), put the Petitioner's name followed by his or her relationship to the child. Eg. "Pauline Poe, maternal grandmother".

For paragraph 4 of the Petition, the Court wants to see the names, ages and addresses of the parents and why they can't care for the children. This information was formerly pushed to an **Exhibit "A"**, but apparently those documents too often get separated from the Petition. If you have no other persons who must be notified, then you will not need an **Exhibit "A"**.

In Paragraph 5, you should write "person only", rather than simply "person" if this is the kind of guardianship you are doing.

Also in Paragraph 5, you must specify why guardianship is necessary now. This is usually an explanation of why the minor is living with the guardian.

Examples:

- "The mother is deceased and the father's whereabouts are unknown."
- "The child has lived with the Petitioner for the past four months because her mother is unable to properly care for her." Note: Because there is no DCFS open case and we want to proceed in Probate Court, we are not going to use the words "abuse" or "neglect" even though, in layman's terms, these words would apply to the way the mother treated the child.

You also need to explain why your client is in court at this point, instead of when she first got the children. (For many clients that was several years ago.)

Examples:

- "Guardianship is necessary to enroll the child in school." Note: Remember that enrolling a child in a better school is not a permissible reason for guardianship.
- "Guardianship is necessary to obtain medical care," or "to qualify for CHA housing or public aid".

If the minor is 14 or over, set up the Petition for his/her signature, but do not have the child sign. This must be done in court, before the judge. The

court can make its own appointment if the minor fails to nominate, but this should not happen in a CVLS case.

B. EXHIBIT “A” TO PETITION-NOTICE

This is a list of the names and addresses of every person entitled to notice of the guardianship. Staple it behind the Petition before you file. Persons entitled to notice include:

- the natural mother;
- the natural father or person who might be the natural father. It is ok to put more than one name here if the client isn't sure about paternity;
- the adult siblings of the minor;
- the maternal grandmother, if the minor ever lived with her OR if the mother is a minor, OR if the mother currently lives with her; and
- any other person with whom the child has resided.

Note about Addresses: If your client says that she does not know where one of these people (usually the father) lives, you must obtain that person's last known address. Very old and obsolete last known addresses are acceptable as "last known". If your client cannot provide a last known address, you will have to publish notice in the Chicago Daily Law Bulletin. Clients not eligible for a fee waiver will have to pay \$135.00 for the privilege.

C. APPEARANCE AND CONSENT

The ideal situation in any guardianship is to obtain an Appearance and Consent from anyone you will be listing, in either the Petition itself or in Exhibit “A”, as entitled to notice. If your client comes to you with an executed “Consent” from a parent or putative parent, please review the wording carefully. The further it deviates from the form consent, the less likely it is to be accepted by the court. For example, a consent to “temporary guardianship” will not work. A consent which adds provisos such as “...although I understand I can take my son back any time I want”, is not a real consent. If your client brings in a non-conforming consent, try to see if she can get the person to sign a form consent. Note that consent signatures must be notarized. And, yes, they do have notaries in prisons. Do not accept any excuses for non-notarization. Handwritten consents are acceptable, providing the form and content comport with the form. Consents must be dated. The court does not like “stale” consents—do not accept one more than 2 months old.

D. OATH AND BOND OF REPRESENTATIVE - NO SURETY (CCP 0313).

This form is used for a guardianship of the person only. If an estate is involved, a different Oath and Bond With Surety form is required (CCP-312). The petitioner must sign and have this document notarized.

E. ORDER APPOINTING GUARDIAN OF MINOR (CCP 0394)

Complete this form for each minor. Again, put "person only", instead of simply "person." For a guardianship of the person, cross out irrelevant paragraphs, such as 4 and 5.

F. Proposed Appointed Guardian Checklist

This is the form the court uses to conduct a criminal background check.

G. CONSENT FOR CANTS BACKGROUND CHECK

This is the form the court uses to conduct a child abuse and neglect background check on the proposed guardian with the Department of Children and Family Services. The CANTS form is a DCFS form, and is only available in court. You must obtain a copy in courtroom 1806 when filing your Petition.

H. CIVIL LEGAL SERVICES PROVIDER FORM (FEE WAIVER), IF APPLICABLE (CCG 0642)

As of April, 2003 filing fees are \$71. We try to give potentially interested parties the benefit of notification at their last known addresses, but when we must publish in the Chicago Daily Law Bulletin, the cost is \$165. Because our clients are taking on the responsibility for the total care of a minor, we expect that most clients can afford these fees. If the client is on a public benefit income or cannot otherwise afford court fees, then a Civil Legal Services Provider (CLSP) form can be used which will waive filing fees but not publication costs. You can sign the CLSP or contact CVLS to have a staff member sign off.

I. AFFIDAVIT FOR SERVICE BY PUBLICATION (CCG 0013), IF APPLICABLE

These are rare cases indeed--used only when your client cannot provide even a last known address for a person named on Exhibit "A". If you need to publish, you will probably need to get an Order for a Free Publication so that your client does not have to pay the \$135 publication fee. CLSP clients will undoubtedly have their fees waived, but others with a somewhat higher income may also qualify. Requests for Free Publication are heard by the Presiding Judge in Room 1803. If you think a non-CLSP client requires a waiver, please call a CVLS staff attorney before you proceed.

J. BIRTH/DEATH CERTIFICATES

The Court will insist upon seeing an original or certified copy of the official state or county birth certificate of each child. Photocopies of these documents or "hospital birth certificates" are not acceptable. The Judge will not file or keep the certified copy you produce, but will examine it closely, and then return it to you. S/he will want a photocopy to keep in the file.

Sidebar: Obtaining the Correct Birth Certificate

The Department of Health now only issues birth certificates for newborns in the first 3 months. For older persons, the following are available: Certified "short-form" birth certificates: These can be obtained from the Cook County Department of Vital Records in the basement of the County Building. The cost is \$10. A sample letter is included with the forms at the end of this Chapter. Whoever requests the short-form should ask that updated parental information be included because the Court requires it.

The requestor must be the person himself (if an adult), a parent listed on the birth certificate, a legal guardian, or the child's legal representative. Requesting lawyers must show their ARDC card. Law clerks and paralegals must produce an attorney's authorization letter. A relative or prospective guardian cannot obtain the certificate. However, the guardianship petitioner can obtain an Order from the Court authorizing release. A sample order is included with these materials.

If a parent is deceased, the Judge will want to see the certified copy of the death certificate. Again, the Court will not keep the original, but will want a photocopy for the file.

K. MISCELLANEOUS SUPPORTING DOCUMENTS

You may have some or none. These might include statements from the military, schools, DCFS, CHA, or other agencies. Good documents can make an iffy guardianship happen; bad docs can result in Probate transferring the case to Juvenile.

IX. PROCEEDING IN COOK COUNTY

A. WHERE TO FILE/WHAT TO TAKE

Petitions are filed in Room 1202 of the Daley Center. Take the following:

- An original and three copies of the Petition. Staple Exhibit A to the back of each if you need one.
- Although you will not need the Appearance and Consent, Oath and Bond, or Order until the hearing, if you have them, bring them along and ask the clerk to stamp them.
- Filing fees: As of July, 2003 the filing fee is \$71.00 per guardianship of the person case. For guardianship of an estate under \$15,000.00, the fee is \$96.00; over \$15,000 the fee is \$141.00.
- OR a CLSP.
- If publication service will be required, bring an original and two copies of an Affidavit for Service by Publication, and \$165 (the fee as of July, 2002) or an Order for a Free Publication for the Chicago Daily Law Bulletin.
- You will not need to bring the birth/death certificates and miscellaneous supporting documents. Save them for the hearing.

B. GETTING A COURT DATE FOR GUARDIANSHIP OF A PERSON

Selecting Your Court Date: Remember, you're going to have to send a Notice of Motion to everyone named in Exhibit "A" (attached to the Petition) who has NOT executed a recently-dated, notarized Appearance and Consent. Don't pick a court date which doesn't allow time for service. The statute only requires that notice be sent by regular mail, but the court usually imposes a higher standard--certified mail. At the hearing, the Judge will want to see a green card (receipt) either signed by the

addressee or returned by the post office as undeliverable. Allow at least 4 weeks.

Again, if your client has been unable to provide you with a last known address, you must arrange for publication in the Chicago Daily Law Bulletin, in which case you should allow at least 5 weeks.

After you file your case in Room 1202, go to Room 1806, approach the clerk and tell her the date and time you wish your case to be heard. Guardianships are heard at 10:00 a.m. and 1:30 p.m. She will put your case in the judge's motion book. No case will be heard unless it has been on the clerk's book for at least 24 hours. If necessary, you can get an Order authorizing release of the minor's birth certificate. Form orders are in the courtroom.

Hand the clerk the completed Proposed Appointed Guardian Checklist. The clerk will give you a court date for at least 2 weeks in the future so that the background check may be completed.

X. THE HEARING

A. PREPARING YOUR CLIENT

Prepare the people who will attend the hearing. The prospective guardian must attend the hearing. If the Petitioner is a parent s/he, too, must attend. Children over the age of 5 should be present. If your client has any of the problems we've discussed earlier in this chapter, make certain that s/he expects inquiries from the court and has credible answers. Minors 14 years and older should be prepared to sign the "Nomination" before the judge. Conservative attire is recommended. You are responsible for the behavior of your entourage, so enforce these rules: No hats, no gum, no food or beverages in the courtroom, no audible talking/laughing, no turned-on cell-phones. Make certain that your client, and older minors have their i.d.'s in hand when they step up to the bench.

Although the hearing is simple, short and uncontested, this preparation is essential. Your client/witnesses have probably never been in court before and will be nervous.

B. CHECKING IN

When you arrive at Room 1806, check in with the clerk and give her the following documents:

- Original Notice of Motion
- Original Petition

- Original Order
- Original Oath and Bond
- All signed consents
- Chicago Daily Law Bulletin notice, if publication service
- Certified mail receipts or returned mail
- Certified copy and photocopy of birth certificate
- Certified copy and photocopy of death certificate, if applicable

C. PRESENTING YOUR CASE

When your case is called, step up to the bench with the Petitioner, guardian and children. Give the case caption and identify yourself. Introduce your client and anyone who accompanies him/her. Make sure all adults and older children have their identification in hand. The Judge will ask to see them. As a rule, the Judge will verify the information on the Petition and ask the guardian, child and other interested parties some questions. Don't answer for your client—make sure s/he is prepared to speak for him or herself. Also, make sure adults and minors (especially teenagers) know to look at the judge and answer in complete sentences, not just grunts. As a rule, you, as the attorney, will have very little to say at this hearing.

D. FOLLOWING UP

After the judge signs the Order, the clerk will stamp and return your copies, as well as copies of the other documents you presented. The clerk will review and return the original birth/death certificates and other supporting documents. The Clerk will stamp your client's copy of the Order with "OK to Certify".

Take your clients and a copy of the Order to Room 1202 to get a certified copy of the order. This costs \$4.00 and requires a wait of about five minutes. This is your proof of guardianship for the time being. Letters of Office, which you do not have to prepare, will be mailed to you in about a week. Immediately send the Letters of Office to your client, advising the client to keep them in a safe place. This is his/her official proof of guardianship over the person of the minor.

XI. TERMINATION OF GUARDIANSHIP

A. REVOCATION OF LETTERS

Upon the minor reaching the age of majority, the Letters of Office shall be revoked and guardianship terminated. 755 ILCS 5/11-14.1 If a minor marries, guardianship of the minor's person is terminated, but the guardianship of the minor's estate remains. 755 ILCS 5/24-12.

B. SUCCESSOR GUARDIAN

Upon the death, incapacity, resignation, or removal of a guardian, the court may appoint a successor guardian. (755 ILCS 5/11-18) Generally, you will follow the same procedures outlined above, but insert the word, "Successor" before the word, "Guardian" on all of the forms. There is no filing fee. Call CVLS for more specific information.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, PROBATE DIVISION

ESTATE OF:

No.: 03 P 123

JANE DOE,

A MINOR

REPRESENTATION BY CIVIL LEGAL SERVICES PROVIDER

I, Larry Lawyer, a civil legal services provider have determined that
(attorney's name)

Josie Doe is eligible to have all fees relating to filing, appearing, transcripts
(name of client)

on appeal, and service of process waived because Josie Doe's income
(name of client)

is 125% or less of the current official federal poverty income guidelines, or

Josie Doe is otherwise eligible to receive civil legal services under the
(name of client)

Legal Services Corporation Act of 1974.

Attorney Certification

Civil Legal Services Provider: Chicago Volunteer Legal Services

Attorney Name: Larry Lawyer

Attorney No.: 91139

Address: 100 N. LaSalle, Suite 900

City, State, Zip: Chicago, IL 60602

Telephone: (312)332-1624

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT - PROBATE DIVISION**

ESTATE OF:

JANE DOE,

A MINOR

No.: 03 P 123

APPEARANCE AND CONSENT FOR LETTERS APPOINTING GUARDIAN

I, Donna Doe, mother of the minor child, state that I am under no legal disability and do hereby appear, waive notice and consent to the immediate appointment of Josie Doe as guardian of the person of the minor child.

DONNA DOE

Subscribed and sworn to before me this ___ day of _____, 20 _____.

Notary Public

Proposed Appointment Guardian Checklist

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, PROBATE DIVISION**

ESTATE OF:

No.: 03 P 123

JANE DOE,

A minor.

PROPOSED APPOINTED GUARDIAN CHECKLIST

Full Name & Middle Initial
Of Proposed Guardian:

Josie H. Doe

Gender: Male x Female

Date of Birth: 4/15/52

Place of Birth: Chicago, IL

Social Security Number: 000-00-0000

Driver License
Or

State I.D. #: D000-0000-0001

Address: 1234 W. Washington

Chicago, IL 60600

RETURN DATE:

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, PROBATE DIVISION**

IN RE THE ESTATE OF:

No.: 03 P 123

**JANE DOE
A MINOR**



NOTICE OF MOTION

***** VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED *****

TO: Robert Doe
999 Little Street
Chicago, IL 60601

On 9/15, 2003 at 10:00 a.m, or as soon thereafter as counsel may be heard, I shall appear before the Honorable Jane Stuart, or any judge sitting in his stead, in courtroom number 1806 in Richard J. Daley Center, Chicago, IL and present the attached pleading requesting:

Order of Guardianship

Attorney Signature: _____
Larry Lawyer
Chicago Volunteer Legal Services
Attorney for: Petitioner
100 N. LaSalle St.
Suite 900
Chicago, IL 60602-2405
Phone:312.332.1624
Law Firm Number: 91139

CERTIFICATE AND AFFIDAVIT OF DELIVERY (PERSONALLY OR BY MAIL)

The undersigned hereby certifies under penalties of perjury as provided by law pursuant to Ill.Rev.Stat.Ch.110, par. 1-109, that the above notice and any attached pleadings were [] personally delivered or [X] placed in the U.S. Mail at 100 N. LaSalle Street, with first class certified, return receipt postage prepaid, and directed to the parties at the addresses set forth above at/before 5:00 pm. On 9/1, 2003.

(Signature)

Larry Lawyer
(Print Name)

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT -- PROBATE DIVISION

IN RE: ESTATE OF:

No.: 03 P 123

JANE DOE,

A MINOR

AFFIDAVIT FOR SERVICE BY (check one)
 PUBLICATION POSTING

Josie Doe on oath states as to
Defendant John Boy that:

1. Defendant (check ONE of the following):

- resides outside the state;
- has gone out of the state;
- cannot be found after diligent inquiry;
- is concealed within the state;

therefore, process cannot be served upon defendant.

2. Defendant's place of residence is (check ONE of the following):

(Address) _____

City State Zip

cannot be ascertained after diligent inquiry. His/Her last known place of residence is:
(Address) 718 E. Washington St.

Chicago IL 69022
City State Zip

Affiant JOSIE DOE

Subscribed and sworn to before me this _____ day of _____, 20 _____

Atty. No.: 91139
Name: Larry Lawyer
Attorney for: Josie Doe
Address: 100 N. LaSalle St., Suite 900
City/State/Zip: Chicago, IL 60602
Telephone: (312)332-1624

Notary Public: _____

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, IL

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT - PROBATE DIVISION

Estate of:

No. 03 P 123

JANE DOE,
A Minor

ORDER FOR FREE PUBLICATION

On the Motion of the Petitioner, by attorney, Larry Lawyer of Chicago Volunteer Legal Services Foundation; the Court having determined that the Petitioner is financially unable to pay the costs of publication; and it appearing to the Court that it is necessary that service be had on the Respondent by Publication in accordance with §2-206 of the Code of Civil Procedure; and it further appearing that the Petitioner is unable to pay the costs of said Publication.

IT IS HEREBY ORDERED:

That the Clerk of the Court shall cause publication to be made herein, in the manner provided by law, and that the Clerk shall pay the costs of said publication.

ENTER:

J U D G E

Larry Lawyer
Chicago Volunteer Legal Services
100 North LaSalle, #900
Chicago, IL 60602
332-1624
Atty Code: 91139

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, IL

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

ESTATE OF:

JANE DOE,
Minor

No.: 03 P 123

Docket:

Page:

Hearing on petition set for

M., Room
Richard J. Daley Center
Chicago, Illinois 60602

[] 2605

PETITION FOR GUARDIAN OF MINOR

Petitioner, Josie Doe, states under the penalties of perjury:

- 1. Jane Doe, whose date of birth was February 22, 1999 and whose place of residence is Cook County, Illinois, is a minor.*
2. Approximate value of the minor's personal estate \$ 0
Approximate value of the minor's real estate \$ 0
Amount of the minor's anticipated gross annual income & other receipts \$ 0
3. The person having custody of the minor is Josie Doe Maternal Grandmother at the address of 1234 W. Washington, Chicago, IL 60600
4. The names and post office addresses of the adult relatives of the minor entitled to notice are set forth on Exhibit A of this petition.
5. It is in the best interest of the minor that a guardian of the person of the minor be appointed for the following reasons: father's whereabouts are unknown, mother is unable to care for the child

Petitioner asks that Josie Doe 1234 W. Washington Chicago, IL 60699, (if an individual, add) 58 years of age, maternal grandmother qualified and willing to act, be appointed as guardian of the person of the minor.

Attorney Certification

Petitioner
Address 1234 W. Washington
Chicago, IL 60699

NOMINATION

I, a minor over 14 years of age, nominate as guardian of my

Atty. No.: 91139
Atty. Name: Larry Lawyer
Firm Name: Chicago Volunteer Legal Services
Atty for: Petitioner
Address: 100 N. LaSalle, Suite 900
City/State/Zip: Chicago, IL 60602
Telephone: (312)332-1624

* If not a resident of Illinois, add: "owning real or personal estate in this county."

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, PROBATE DIVISION**

ESTATE OF:

No.:03 P 123

JANE DOE,

A MINOR

EXHIBIT "A" TO PETITION FOR GUARDIANSHIP OF MINOR

The names and post office addresses of the adult relatives of the minor entitled to notice are as follows:

NAME	RELATIONSHIP	POST OFFICE ADDRESS
John Doe	Father	718 E. Washington St. Chicago, IL 60600
Donna Doe	Mother	19 Fourth Street Bluegrass, Kentucky 12123
Robert Doe	Adult Sibling	999 Little Street Chicago, IL 60601

Larry Lawyer
Chicago Volunteer Legal Services
Attorney for the Petitioner
100 North LaSalle, Suite 900
Chicago, IL 60602-2408
332-1624
Law Firm No.: 91139

STATE OF ILLINOIS
COUNTY OF COOK

)

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, PROBATE DIVISION

ESTATE OF:
JANE DOE,
A MINOR.

)

NO: 03 P 123
DOC:
PAGE:

ORDER ALLOWING PETITIONER TO OBTAIN MINOR'S BIRTH CERTIFICATE

Josie Doe
(Name of Petitioner), having filed a petition
to obtain guardianship over _____
Jane Doe
(Name of Minor), must
obtain a birth certificate of said minor to proceed with the guardianship petition.

This court hereby orders that petitioner can obtain the birth certificate of the above mentioned minor, even though petitioner is not the agent or biological parent of the minor.

Larry Lawyer
Chicago Volunteer Legal Services
100 N. LaSalle
Suite 900
Chicago, IL 60602
312.332.1624
Atty No: 91139

ENTERED: _____
Judge

DATE: _____

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT - PROBATE DIVISION**

ESTATE OF:

JANE DOE, _____

A MINOR



No.: 03 P 123 _____

Doc.: _____

Page: _____

OATH AND BOND OF REPRESENTATIVE - NO SURETY

I, JOSIE DOE, on oath state that I will discharge faithfully the duties of the office of representative, and I acknowledge that I am bound to the People of the State of Illinois to the faithful discharge of those duties in an amount equal to double the value from time to time of the personal estate.

APPROVED:

_____, _____

Judge

Judge's No.

Address 1234 W. Washington

Chicago, IL 60645

Atty. No.: 91139
Atty. Name: Larry Lawyer
Firm Name: Chicago Volunteer Legal Services
Atty for: Petitioner
Address: 100 N. LaSalle, Suite 900
City/State/Zip: Chicago, IL 60602
Telephone: (312)332-1624

Signed and sworn to before me

_____, _____

(Clerk of Court)

(Notary Public)

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

ESTATE OF
JANE DOE,
Minor

No. 03 P 123

Docket

Page

ORDER APPOINTING GUARDIAN OF MINOR

On the verified petition of Josie Doe for
appointment of a guardian, due notice having been given, the court having
(given) (waived)
considered the evidence,

IT IS ORDERED that:

1. Josie Doe is appointed the guardian of
the Person of the following minor:
(estate) (person) (estate and person)
[] 4256 [] 4225 [] 4257
JANE DOE;

2. The bond of the guardian is approved;
(approved 4611) (waived 4621)

3. Letters of guardianship shall issue;

~~*4. The guardian of the estate shall file an inventory in Room _____ Richard J. Daley Center
on _____, _____ at 10:00 a.m.~~

~~*5. The guardian of the estate shall deposit the minor's funds in an account in the name of the minor, subject to
withdrawal only on order of court or upon the attainment of majority, in an institution qualified to receive the deposit.
The guardian shall file a report of receipts and disbursements, together with vouchers, on _____,
in Room _____ at _____ M. Upon approval of the report, the guardian and surety shall be discharged
and the estate closed. (4220) (4251)~~

Atty. No.: 91139
Name: Larry Lawyer
Firm Name: Chicago Volunteer Legal Services
Atty for: Petitioner
Address: 100 N. LaSalle, Suite 900
City/State/Zip: Chicago, IL 60602
Telephone: (312)332-1624

ENTER:

Judge

Judge's No.

*Strike if not applicable.

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY

DAVID D. ORR, County Clerk
 COOK COUNTY VITAL STATISTICS, P.O. BOX 642570
 CHICAGO, ILLINOIS 60664-2570

Before Filling Out Application Be Certain BIRTH Occurred in Cook County

BIRTH

Form WB

Number of Copies	
------------------	--

Reg. No.
Searchers Initials

PLEASE PRINT INFORMATION

NAME _____
First Name Middle Name Last Name

Date of Birth _____

Place of Birth _____

Name of Father _____

Maiden Name of Mother _____
First Name Middle Name Last Name

I, the undersigned, do hereby certify that as the person whose record is sought, or as the parent, guardian, or legal representative of the person, am legally entitled according to the Illinois State Statute {Chap. 111-1/2, Sec. 73-25 (4)(b) }

 Print Your Name

 Your Signature

 Address

 Your Relationship to Person
 Named on Document

 City

Phone () -

PLEASE CHECK THE APPROPRIATE BOX

- IS BIRTH REQUEST FOR A MINOR (17YRS. OR UNDER)
- IS BIRTH REQUEST FOR GENEALOGICAL PURPOSE
- INDICATE WHAT DOCUMENT IS NEEDED FOR _____

WAITING WILL CALL MAIL (Complete Below)

Mail to (Name) _____

Address _____

City _____ State _____ Zip Code _____

DAVID D. ORR, County Clerk

April 7, 2006

Andrew L. Tomlin
Bureau of Vital Records
118 N. Clark Street
Chicago, IL 60602

Dear Mr. Tomlin:

This letter will serve to advise your office that I represent:

Jane Doe _____
(Name of client or estate if client is deceased)

My client has authorized me or my office to obtain a vital record from your office. Please provide the record as described in the attached application, to my employee, Honest Abe.

_____.

Yours truly,

Larry Lawyer

Attorney's signature: _____

Attorney's State Identification Number: 06000000000

Attorney's Telephone Number: (312)332-1624

