

Petition for Temporary Letters of Guardianship of Minor

INSTRUCTIONS

I. Specific Instructions

1. This form is to be used for filing a Petition for Temporary Letters of Guardianship of a minor pursuant to O.C.G.A. §29-2-5.
2. Notice of the Petition must be given to the “parents” of the minor. If an objection to the establishment of the temporary guardianship is filed by a parent who is also a “natural guardian,” the Court will dismiss the Petition without a hearing. If a parent who is not a natural guardian objects, a hearing on the matter will be scheduled.

A “parent” is defined as the biological or adoptive father or mother whose parental rights have not been surrendered or terminated, except that in the case of a child born out of wedlock, the father shall be considered a “parent” only if he has legitimated the minor.

A father of a child born out of wedlock has legitimated the minor if he took some legal action to be recognized as the legal or lawful father.

A “natural guardian” is defined as each parent, unless the parents are divorced. If one parent has sole legal custody, that parent is the sole “natural guardian.” If both parents have joint legal custody, then both parents are “natural guardians.”

3. A temporary guardianship will be deemed to be a permanent guardianship for the purposes of obtaining medical insurance coverage for the minor if the guardian assumes in writing the obligation to support the minor while the guardianship is in effect to the extent that no other sources of support are available.
4. Unless otherwise permitted by the Probate Court in which filed, a separate Petition must be filed for each minor. Contact the Probate Court in which the Petition will be filed for its policy. If the filing of one petition for more than one minor is permitted by the Probate Court, modify the Petition accordingly.
5. According to Probate Court Rule 5.6 (A), unless the court specifically assumes the responsibility; it is the responsibility of the moving party to prepare the proper citation and deliver it properly so it can be served according to law. Pages after 6 which are labeled “Court” are to be completed by the moving party, unless otherwise directed by the court.

II. General Instructions

General instructions applicable to all Georgia probate court standard forms are available in each probate court.

IN THE PROBATE COURT OF _____ COUNTY

STATE OF GEORGIA

IN RE: _____) ESTATE NO. _____
)
_____,)
) PETITION FOR TEMPORARY LETTERS
_____,) OF GUARDIANSHIP OF MINOR
)
MINOR)

TO THE HONORABLE JUDGE OF THE PROBATE COURT:

The petition of _____, who is/are domiciled at (physical address) _____, _____ County, who has/have actual physical custody of the minor named above, and whose mailing address(es) is/are _____ shows:

1.

The minor, _____, currently is located in the county in which this petition is being filed, is _____ years old with a date of birth of _____. The minor's current address is _____.

A copy of the minor's birth certificate is attached as exhibit "A."

2.

Said minor is in need of a temporary guardian. The Petitioner(s) has/have the following relationship with the minor: _____.

3.

The minor's mother, _____, (initial all that apply)

- _____ a. is not a natural guardian of the minor because her parental rights have been terminated or she has surrendered them;
- _____ b. has sole legal custody of the minor;
- _____ c. has joint legal custody of the minor;
- _____ d. has selected petitioner(s) to serve as temporary guardian(s) (see attached notarized acknowledgment and consent);
- _____ e. is deceased, and a copy of her death certificate is attached as exhibit "B;"
- _____ f. has not consented to the creation of the temporary guardianship and her (current physical address county of residence is _____, located in _____ County) (current address is unknown).

4.

(initial either a., b or c:)

_____ a. The minor was born during a marriage. The father of the minor, _____, (initial all that apply)

- _____ (i) is not a natural guardian of the minor because his parental rights have been terminated or he has surrendered them;
- _____ (ii) has sole legal custody of the minor;
- _____ (iii) has joint legal custody of the minor;
- _____ (iv) has selected petitioner to serve as temporary guardian (see attached notarized acknowledgment and consent);
- _____ (v) is deceased, and a copy of his death certificate is attached as exhibit "C;"
- _____ (vi) has not consented to the creation of the temporary guardianship and his (current physical address is _____, located in _____ County) (current address is unknown).

_____ b. The minor was born out of wedlock. The biological father of the minor, _____, has not legitimated the minor.

_____ c. The minor was born out of wedlock AND the father of the minor legitimated the minor. The father of the minor, _____, (initial all that apply)

- _____ (i) is not a natural guardian of the minor because his parental rights have been terminated or he has surrendered them;
- _____ (ii) has sole legal custody of the minor;
- _____ (iii) has joint legal custody of the minor;
- _____ (iv) has selected petitioner to serve as temporary guardian (see attached notarized acknowledgment and consent);
- _____ (v) is deceased, and a copy of his death certificate is attached as exhibit "C;"
- _____ (vi) has not consented to the creation of the temporary guardianship and his (current physical address is _____, located in _____ County) (current address is unknown).

5.

(initial if applicable)

_____ a. The minor, being over fourteen years of age, has selected the petitioner(s) to act as temporary guardian(s) as shown by the attached selection.

6.

NOTE: complete the following unless both parents have signed the attached notarized acknowledgment and consent:

The temporary guardianship is needed because _____

_____.

7.

Additional Data: Where full particulars are lacking, state here the reasons for any such omission. Also, state here all pertinent facts which may govern the method of giving notice to any party and which may determine whether or not a guardian ad litem should be appointed for any party.

WHEREFORE, petitioner(s) pray(s) that

1. service be perfected as provided by law and
2. petitioner(s) be appointed temporary guardian(s) of the minor named above.

Signature of first petitioner

Signature of second petitioner, if any

Printed Name

Printed Name

Address

Address

Telephone Number

Telephone Number

Signature of Attorney: _____

Typed/printed name of Attorney: _____

Address: _____

Telephone: _____ State Bar # _____

VERIFICATION

GEORGIA, _____ COUNTY

Personally appeared before me the undersigned petitioner(s) who on oath state(s) that the facts set forth in the foregoing petition are true.

Sworn to and subscribed before me this ____ day of _____, 20____.

First Petitioner

NOTARY/CLERK OF PROBATE COURT
My Commission Expires _____

Printed Name

Sworn to and subscribed before me this ____ day of _____, 20____.

Second Petitioner, if any

NOTARY/CLERK OF PROBATE COURT
My Commission Expires _____

Printed Name

ACKNOWLEDGMENT AND CONSENT TO CREATION OF TEMPORARY GUARDIANSHIP AND APPOINTMENT OF INDIVIDUAL(S) AS TEMPORARY GUARDIAN(S)

IN RE: ESTATE OF _____ ESTATE NO. _____

I/We, _____, the mother/father of _____, minor, do hereby consent to the creation of a temporary guardianship and the appointment of (list all parties to whom you wish to grant temporary guardianship) _____, and also acknowledge service of the petition for appointment of a temporary guardian for said minor, and waive any and all further service and notice concerning said petition.

I/We further understand that pursuant to O.C.G.A. §29-2-8(b), upon application by a natural guardian (as defined in said statute; see Instructions) , the court will remove the temporary guardian and dissolve the temporary guardianship unless an objection is timely filed by the temporary guardian. If an objection is timely filed to such an application, the juvenile court or the probate court shall determine, after notice and hearing, whether a continuation or dissolution of the temporary guardianship is in the best interest of the minor. I/We understand that nothing herein, including any optional assumption by the guardian of the obligation to support the minor to the extent that no other sources of support are available, affects my/our legal obligation to support and maintain said minor.

Sworn to and subscribed before
me this ____ day of _____, 20____.

Mother

Printed Name

Notary Public/Clerk, Probate Court
My Commission Expires _____

Address

Telephone Number

Sworn to and subscribed before
me this ____ day of _____, 20____.

Father

Printed Name

Notary Public/Clerk, Probate Court
My Commission Expires _____

Address

Telephone Number

ASSUMPTION OF OBLIGATION TO SUPPORT (OPTIONAL)

IN RE: ESTATE OF _____ ESTATE NO. _____

The undersigned, if appointed temporary guardian(s) of _____,
minor, assume(s) the obligation to support the minor while the guardianship is in effect to the extent that no
other sources of support are available.

Sworn to and subscribed before
me this ____ day of _____, 20____.

Petitioner

Clerk, Probate Court/Notary Public
My Commission Expires _____

Printed Name

Sworn to and subscribed before
me this ____ day of _____, 20____.

Co-Petitioner

Clerk, Probate Court/Notary Public
My Commission Expires _____

Printed Name

Petition for Temporary Letters of Guardianship of Minor

Pages after 6 which are labeled "Court" are to be completed by the moving party, unless otherwise directed by the court.

NOTICE:

THE FOLLOWING PAGES ARE TO BE COMPLETED BY THE PETITIONER (MOVING PARTY) UNLESS OTHERWISE DIRECTED BY THE COURT. SEE PROBATE COURT RULE 5.6 (A).

IN THE PROBATE COURT OF _____ COUNTY

STATE OF GEORGIA

IN RE:)	ESTATE NO. _____
)	
_____ ,)	
)	
_____ ,)	PETITION FOR TEMPORARY LETTERS
MINOR)	OF GUARDIANSHIP OF MINOR

ORDER FOR SERVICE

- _____ a. It appearing that the mother of the minor named in the petition has not acknowledged and consented to the Petition and that (initial):
 - _____ (i) she resides at a known address in the State of Georgia, she must therefore be served by personal service.
 - _____ (ii) she resides at a known address outside the State of Georgia, she must therefore be served by first class mail.
 - _____ (iii) her current address is unknown, she must therefore be served by publication once a week for two weeks.

- _____ b. It appearing that the father of the minor named in the petition has not acknowledged and consented to the Petition and that (initial):
 - _____ (i) he resides at a known address in the State of Georgia, he must therefore be served by personal service.
 - _____ (ii) he resides at a known address outside the State of Georgia, he must therefore be served by first class mail.
 - _____ (iii) his current address is unknown, he must therefore be served by publication once a week for two weeks.

THEREFORE, IT IS ORDERED that citation issue and be served as indicated above and in accordance with law.

SO ORDERED this _____ day of _____, 20_____.

Probate Judge

CITATION

GEORGIA, _____ **COUNTY** **ESTATE NO.** _____

IN RE: PETITION OF _____
FOR TEMPORARY LETTERS OF GUARDIANSHIP

ESTATE OF _____, **MINOR**

DATE OF MAILING, IF ANY _____

DATE OF SECOND PUBLICATION, IF ANY _____

TO: _____

You are hereby notified that a petition for the appointment of a temporary guardian has been filed regarding the above-named minor. All objections to the Petition described above either to the appointment of a temporary guardian or the appointment of the petitioner(s) as temporary guardian(s), must be in writing, setting forth the grounds of any such objections, and must be filed with this Court no later than 14 days after this notice is mailed, or 10 days after this notice is personally served upon you, or ten days after the second publication of this notice if you are served by publication. All pleadings must be signed before a notary public or Georgia probate court clerk, and filing fees must be tendered with your pleadings, unless you qualify to file as an indigent party. Contact probate court personnel at the below address/telephone number for the required amount of filing fees.

*** NOTE: If a natural guardian files an objection to the creation of the temporary guardianship, the Petition will be dismissed. If a natural guardian files an objection to the appointment of the petitioner(s) as guardian(s), or if a parent who is not a natural guardian files an objection to the petition, a hearing on the matter (shall be held on _____ at _____m. in the Probate Court of _____ County, courtroom _____, (address) _____, Georgia) (shall be scheduled at a later date).

PROBATE JUDGE

By: _____
PROBATE CLERK/DEPUTY CLERK

ADDRESS

TELEPHONE

CERTIFICATE OF MAILING

I do hereby certify that I have this day mailed a copy of the above citation, petition and order for service to each party to whom the citation is directed who resides outside the State of Georgia at a known current address, in a properly addressed and stamped envelope, by first class mail.

DATE

PROBATE CLERK/DEPUTY CLERK

IN THE PROBATE COURT OF _____ COUNTY

STATE OF GEORGIA

IN RE: ESTATE OF)	ESTATE NO. _____
)	
_____ ,)	PETITION FOR TEMPORARY LETTERS
)	OF GUARDIANSHIP OF MINOR
_____ ,)	
MINOR)	
)	
_____ ,)	
TEMPORARY GUARDIAN(S))	

ORDER

Upon reading and considering the foregoing petition (and selection) and it appearing that each parent has acknowledged and consented to the Petition or been properly served with notice of this proceeding, and no objection having been filed,

IT IS ORDERED that the petitioner(s) be, and hereby is/are, appointed temporary guardian(s) of the above minor, and that temporary letters of guardianship issue to said petitioner(s) upon taking the oath as required by law.

(Initial if applicable:)

_____ IT IS FURTHER ORDERED that the temporary guardian(s) shall file a personal status report with the Court sixty (60) days from the date of this Order and on the anniversary date of this Order each year thereafter.

_____ IT IS FURTHER ORDERED that this guardianship shall be deemed to be a permanent guardianship for the purposes of the guardian's(s') obtaining medical insurance coverage for the minor because the guardian(s) has/have assumed in writing the obligation to support the minor while the guardianship is in effect to the extent that no other sources of support are available.

SO ORDERED this _____ day of _____, 20_____.

Probate Judge

IN THE PROBATE COURT OF _____ COUNTY

STATE OF GEORGIA

IN RE: ESTATE OF)	ESTATE NO. _____
)	
_____,)	PETITION FOR TEMPORARY LETTERS
MINOR)	OF GUARDIANSHIP OF MINOR
)	
_____,)	
TEMPORARY GUARDIAN(S))	

OATH

I/We do solemnly swear (or affirm) that I/we will well and truly perform the duties required of me/us as temporary guardian(s) of the minor named above.

Sworn to and subscribed before
me this ____ day of _____, 20____.

Temporary Guardian

JUDGE /CLERK OF PROBATE COURT

Printed Name

Sworn to and subscribed before
me this ____ day of _____, 20____.

Co-Temporary Guardian, if any

JUDGE /CLERK OF PROBATE COURT

Printed Name

STATE OF GEORGIA

COUNTY OF _____

ESTATE NO. _____

TEMPORARY LETTERS OF GUARDIANSHIP OF MINOR

From the Judge of the Probate Court of said County.

TO: _____, Guardian(s)

RE: _____, Minor

The above-named minor has been found by this Court to be in need of a guardian, and this Court has entered an order appointing you as such guardian. You have assented to this appointment by taking your oath. In general, your duties as guardian are to protect and maintain the person of the minor.

Special Instructions:

1. It is your duty to see that the minor is adequately fed, clothed, sheltered, educated and cared for, and that the minor receives all necessary medical attention.
2. You must keep the Court informed of any change in your name or address.
3. You should inform the Court of any change of location of the minor.
4. If the Order appointing you requires, you must file an annual Personal Status Report concerning the minor.
5. Please consult your attorney if you have any questions. Your authority to act pursuant to these Letters is subject to applicable statutes and to any special orders entered in this case.

(initial if applicable)

_____ If initialed, the guardianship shall be deemed a permanent guardianship for the purposes of the guardian's(s') obtaining medical insurance coverage for the minor.

Given under my hand and official seal, the _____ day of _____, 20_____.

Probate Judge

NOTE: The following must be signed if the judge does not sign the original of this document:

Issued by:

PROBATE CLERK/DEPUTY CLERK (Seal)