

**INSTRUCTIONS FOR COMPLETING PETITION FOR GUARDIANSHIP OF THE  
PERSON AND / OR PROPERTY OF A MINOR (CC-GN-001)  
(Md. Rule 10-111)**

Before completing the Petition for Guardianship of Minor, review the **General Instructions** (CC-DRIN) in addition to these instructions. These instructions will assist you and are for informational purposes only. They are not intended as legal advice.

**WHO SHOULD USE THIS FORM?**

Use the **Petition for Guardianship of Minor** (CC-GN-001) if you are asking the court to appoint you or someone else as a guardian of the person or property of a minor (a child under 18), and you do not have a lawyer. These instructions answer questions including:

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**NOTE:** Guardianship cases can be complicated. You may want to speak with a lawyer.

**WHAT IS GUARDIANSHIP OF THE PERSON OR PROPERTY OF A MINOR?**

**Guardianship of the person:** The court may appoint a guardian of the person of a minor if neither parent is capable of serving as guardian of the person or no testamentary appointment (i.e., appointment by will) has been made. If appointed, the guardian will make decisions about the minor’s health care, food, clothing, shelter, and other subjects.

**Guardianship of the property:** A court will appoint a guardian of the property if it determines that:

1. the minor owns or is entitled to property (e.g., through inheritance, tort recovery (money from a lawsuit for injuries or damages), insurance policy, etc.) that requires management or protection, or
2. the minor needs funds for support, care, and education and protection is necessary or desirable to obtain or provide funds.

If appointed, the guardian will determine whether the minor needs any distributions for their minor’s general well-being or for educational purposes, and petition the court for permission to withdraw funds. The guardian of the property may be required to post a bond.

**Guardianship of the person and property:** A person can be appointed to serve as guardian of both the person and property of a minor.

**WHO CAN FILE FOR GUARDIANSHIP?**

Only interested persons can file for guardianship. Interested persons are defined by law. See paragraph 8 of form CC-GN-001 (Petition for Guardianship of a Minor) for a list of interested persons.

If you are not an interested person, but are concerned about risks to the personal or financial well-being of the minor if a guardian is not appointed, it is recommended that you speak with a lawyer.

## **HOW DO I FILE FOR GUARDIANSHIP OF A MINOR?**

If you are filing the guardianship case yourself, you are the petitioner. Use the **CC-GN forms**.

**There are six (6) steps:**

□ **STEP 1. Complete a Petition for Guardianship of Minor** – Complete Form CC-GN-001.

- **Parent’s Consent to Guardianship of a Minor** – If the minor’s parents are alive, ask them to consent (agree to) the guardianship by completing and signing form CC-GN-007 (Parent’s Consent to Guardianship of a Minor). Include the original form with your petition. If you cannot get consent from a living parent because they cannot be contacted, located, or identified, file form CC-GN-010 (Affidavit of Attempts to Contact, Locate, and Identify) with the court. If there is another reason, file an affidavit with the court (a written statement made under oath) stating why you could not get the parent’s consent.
- **Designation of a Guardian of the Person** – After a minor’s 14<sup>th</sup> birthday, s/he may designate who they want as a guardian of the person. Complete the **Designation of a Guardian of the Person by a Minor** (CC-GN-008).
- **Designation of a Guardian of the Property** – After a minor’s 16<sup>th</sup> birthday, s/he may designate who they want as a guardian of the property. Have the minor complete and sign the **Designation of a Guardian of the Property by a Minor or Disabled Person** (CC-GN-009). Attach the original form to the petition.

### **CC-GN-001 Form tips:**

- If you are a **co-petitioner** (another person joining the filing for guardianship of the minor), complete and sign a Co-Petitioner Information Sheet (CC-GN-018).
  - **Instruction 3: Similarly situated full siblings** – means full siblings who need a guardian appointed for the same reason(s).
  - **Paragraph 6:** If you are asking the court to appoint another person as guardian of the person or property, ask that person to complete and sign the Prospective Guardian Information Sheet (CC-GN-023) and file the original with your petition.
  - **Paragraph 9:** List the name of someone over the age of 18 who does not live with the minor and is not an interested person in the case. This is required so there is a neutral person the court can contact.
- **STEP 2. File for guardianship** - File the completed petition and required exhibits with the Clerk of the Court in the appropriate court.

### **Where to File for Guardianship**

If you are requesting guardianship of the person and the minor **lives in** Maryland, file in the circuit court of the county (or Baltimore City) in which s/he is living. Do not file in the county (or Baltimore City) where you are living unless you live in the same county as the minor. If the minor **does not live in** Maryland, file in the circuit court of any county (or Baltimore City) in which s/he is physically present.

If you are requesting guardianship of the property of the minor, file in any county (or Baltimore City) where the minor has property such as a house or bank account.

If you are requesting both guardianship of the person and property, file in the county (or Baltimore City) in which s/he lives or is physically present.

You may also be able to file your case in the orphans’ court in the county (or Baltimore City) where the minor lives, is physically present, or has property. Please note that a case that is filed in the orphans’ court will be transferred to the circuit court if it is contested.

You must pay a filing fee. If you cannot afford the filing fees, ask the court to waive the fees at the beginning of your case by filing a **Request for Waiver of Prepaid Costs** (CC-DC-089) (See **General Instructions** (CC-DRIN) for more information on fees and court costs).

The court will assign your petition a **case number**. It will also issue a **show cause order** that includes

- the date of the guardianship hearing (see STEP 6);
- the date by which service must be completed (see STEP 3); and
- the date by which the minor and interested persons need to respond or “show cause” as to why a guardianship is not necessary or why a proposed guardian should not be appointed.

**Remember the case number. Keep copies of the petition and all attachments.**

- **STEP 3. Service of process** – Service of process is the way the court ensures that all necessary people receive copies of your guardianship petition. Your case cannot move forward until proper service is made.

**You must serve the minor, the parent(s), guardians(s), or other person(s) having care or custody of the minor, the minor’s attorney if they have one, AND all interested persons** (see Paragraph 8 of CC-GN-001 for a list of interested persons). If the minor lives with you, serve the minor and any additional persons named by the court. Service on a minor who is under the age of ten may be waived as long as the other service requirements are met (i.e., service is made upon the minor’s parent, guardian, or other person who has custody of the minor, or another person if the minor lives with the petitioner).

Each person to be served must receive:

- 1) A copy of the petition;
- 2) Any papers filed with the court; and
- 3) The **show cause order** issued by the court.

Serve the minor with an **Advice of Rights** (CC-GN-015 if asking for a guardianship of the person and/or form CC-GN-016 if asking for guardianship of the property).

Serve interested persons with a **Notice to Interested Persons** (CC-GN-005 if asking for a guardianship of the person and/or form CC-GN006 if asking for a guardianship of the property).

- **STEP 4. File proof of service with the court** – File proof that all necessary people have been properly served with the required papers. If you were unable to contact, locate, or identify any interested person, complete and sign an **Affidavit of Attempts to Contact, Locate, and Identify Interested Persons (CC-GN-010) and file it with the court.**

**For more information about service, see General Instructions (CC-DRIN) and the Self-Help Video, “Service of Process,”** available at: <http://www.mdcourts.gov/video/selfhelp/serviceofprocess.html>.

- **STEP 5. Appointment of an Attorney** – After the court receives a petition for guardianship, it may appoint an attorney to represent the minor if s/he does not already have one.
- **STEP 6. Hearing** – If no one responds to the show cause order (i.e., challenges the need for guardianship or who should be appointed), the court may rule on the petition without holding a hearing. If any interested person objects to the petition, the court will schedule a hearing and notify all parties.

The hearing helps the court decide if the minor needs a guardian and, if so, who should be appointed. It is important that you attend the hearing and bring all papers related to the case. If the minor or an interested person contests (challenges) your request for guardianship, contact a lawyer before the hearing.

## WHO CAN BE A GUARDIAN?

The court may appoint anyone who is qualified and capable of fulfilling the responsibilities of a guardian. The law provides a list of potential guardians in order of preference. See: Md. Code Ann., Estates and Trusts, Article § 13-707.

Unless good cause is shown for the appointment, the court may not appoint someone who has been convicted of any of the following crimes listed under Md. Code Ann., Estates and Trusts, Article § 11-114:

- A felony
- A crime of violence as defined in § 14-101 of the Criminal Law Article, which include:
  - abduction;
  - arson in the first degree;
  - kidnapping;
  - manslaughter, except involuntary manslaughter;
  - mayhem;
  - maiming, as previously proscribed under former Article 27, §§ 385 and 386 of the Maryland Code;
  - murder;
  - rape;
  - robbery under § 3-402 or § 3-403 of the Criminal Law Article;
  - carjacking;
  - armed carjacking;
  - sexual offense in the first degree;
  - sexual offense in the second degree;
  - use of a handgun in the commission of a felony or other crime of violence;
  - child abuse in the first degree under § 3-601 of the Criminal Law Article;
  - sexual abuse of a minor under § 3-602 of the Criminal Law Article if:
    - the victim is under the age of 13 years and the offender is an adult at the time of the offense; and
    - the offense involved:
      - vaginal intercourse, as defined in § 3-301 of the Criminal Law Article;
      - a sexual act, as defined in § 3-301 of the Criminal Law Article;
      - an act in which a part of the offender's body penetrates, however slightly into the victim's genital opening or anus; or
      - the intentional touching, not through the clothing, of the victim's or the offender's genital, anal, or other intimate area for sexual arousal, gratification, or abuse;
  - an attempt to commit any of the crimes listed above;
  - continuing course of conduct with a child under § 3-315 of the Criminal Law Article;
  - assault in the first degree;
  - assault with intent to murder;
  - assault with intent to rape;
  - assault with intent to rob;
  - assault with intent to commit a sexual offense in the first degree; and
  - assault with intent to commit a sexual offense in the second degree.
- Assault in the second degree; or
- A sexual offense in the third or fourth degree or attempted rape or sexual offense in the third or fourth degree

Unless good cause is shown for the appointment, the court may not appoint someone as a guardian of the property who has been convicted of a crime that reflects negatively on that person's honesty, trustworthiness, or fitness to perform the guardianship duties, including fraud, extortion, embezzlement, forgery, perjury, and theft.

If you or the proposed guardian has been convicted of a disqualifying crime, **there will be an opportunity to explain to the court why the court should still make the appointment.**

## **WHAT ARE THE GUARDIAN ORIENTATION AND TRAINING REQUIREMENTS?**

Before the court appoints you as a guardian of the person or property, you must watch the orientation program for court-appointed guardians available at <https://mdcourts.gov/family/guardianship/guardianorientationprogram>. This brief video covers the role, duties, and responsibilities, of a guardian and what to expect if appointed. If you do not have access to a computer or need help watching the program, contact the court.

After watching the video, complete a Certificate of Completion – Guardian Orientation and Training Program (CC-GN-031) and file it with the court.

After the court appoints you as guardian, it will direct you to complete a training program. The program covers your specific responsibilities as guardian in more detail, describes how to make decisions as a guardian, and provides information about community resources available to help you and the person you care for. Guardians of the person must complete the training within 120 days of appointment. Guardians of the property must complete the training within 60 days of appointment. The court may direct you to complete the training at another time.

Some courts offer the training program as a class you can attend. Some may allow you to complete the training program online. Ask the court how you can meet the training requirement.

Visit [www.mdcourts.gov/guardianship](http://www.mdcourts.gov/guardianship) for more information about the court-appointed guardian orientation and training programs. This website also has checklists, court forms, and other resources for guardians.