

I want to get a Guardianship of a child

Things you should know:

- Guardianship gives you (the guardian) legal and physical custody of the child.
- You are like the parent – responsible for raising and supporting the child.
 - This is different from an adoption. The parents' rights are not terminated. You are not the parent.
 - Parents may still visit the child and should support the child.

Ask yourself: Is this an emergency?

If the child needs immediate protection, you'll need to ask for an emergency guardianship called a Temporary Guardianship.

The court **cannot give** you a temporary guardianship – **unless** there is an emergency.

Examples of emergencies

- parent caring for the child died
- parents can't or won't take care of the child
- child is homeless
- child needs to go to the doctor and parents don't take them
- child has been living with you for a while
- Child Family Services (CFS) has asked you to take the child or the child will be in foster care and you have the child, before filing

Very Important:

Contact the Probate Facilitator:
925.957.5784, (voicemail only) or
Email
probfac@contracosta.courts.ca.gov

If you **answered yes**, this is an emergency, then

You need to **file** at the **same time** for **both**

- Temporary Guardianship, and
- (General) Guardianship.

The Temporary Guardianship is good until the court decides on the (General) Guardianship.

If you **answered no**, this is not an emergency, then

You need to get a (General) Guardianship **only**, (You don't need a Temporary Guardianship.)

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What's a (General) Guardianship?

It is the guardianship that lasts until the child turns 18. (Sometimes the guardianship ends before – if the child dies or the court ends it in the best interests of the child).

Who can ask for a Guardianship?

Any adult, except parents. However, the adult is usually related by blood to the child, such as grandparents, uncles, aunts, cousins, siblings, etc. —>

Even the child can ask for one, if the child is 12 or older.

Parents cannot be guardians. They already have the legal and physical custody of your child. (Unless, the parent is terminally ill and wants to be a co-guardian until they pass.)

If I ask for a Guardianship, what am I called?

You are the Petitioner. —————>

A person is often both the Petitioner and the Proposed Guardian.

A petitioner is not always the person who wants to be guardian. It can be 2 different people.

- For example, sometimes a parent is the petitioner and a relative is the proposed guardian,

Can there be more than one Petitioner or Proposed Guardian?

Yes. For example, often a grandfather and grandmother are both petitioners and/or proposed guardians.

What is the child (or children) called in a Guardianship?

The child (or children) is called the 'ward(s)' 'minor(s)'.

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Where can I get the forms?

Ask for a **Guardianship Packet of the Person Only**

- Public Law Library
1020 Ward Street
Martinez, CA
Front Desk – Cash only
Hours: 8a to 5p, weekdays
- Pittsburg Court
45 Civic Avenue
Pittsburg, CA 94565
Filing Window
8a to 1p, weekdays
- Richmond Court
100 - 37th Street
Richmond, CA 94805
Filing Window
8a to 1p, weekdays

www.cc-courthelp/gspforms

This site also tells you how to fill out the forms.

- Websites

www.courts.ca.gov

After opening this site, click forms; go to Probate Guardianships-Conservatorships.

What forms do I file for a Temporary Guardianship?

You need the forms for both the

- Temporary Guardianship, and
- (General) Guardianship.

See

Temporary Guardianship Forms List.

What forms do I file for the General Guardianship only?

(If you don't need a Temporary Guardianship.)

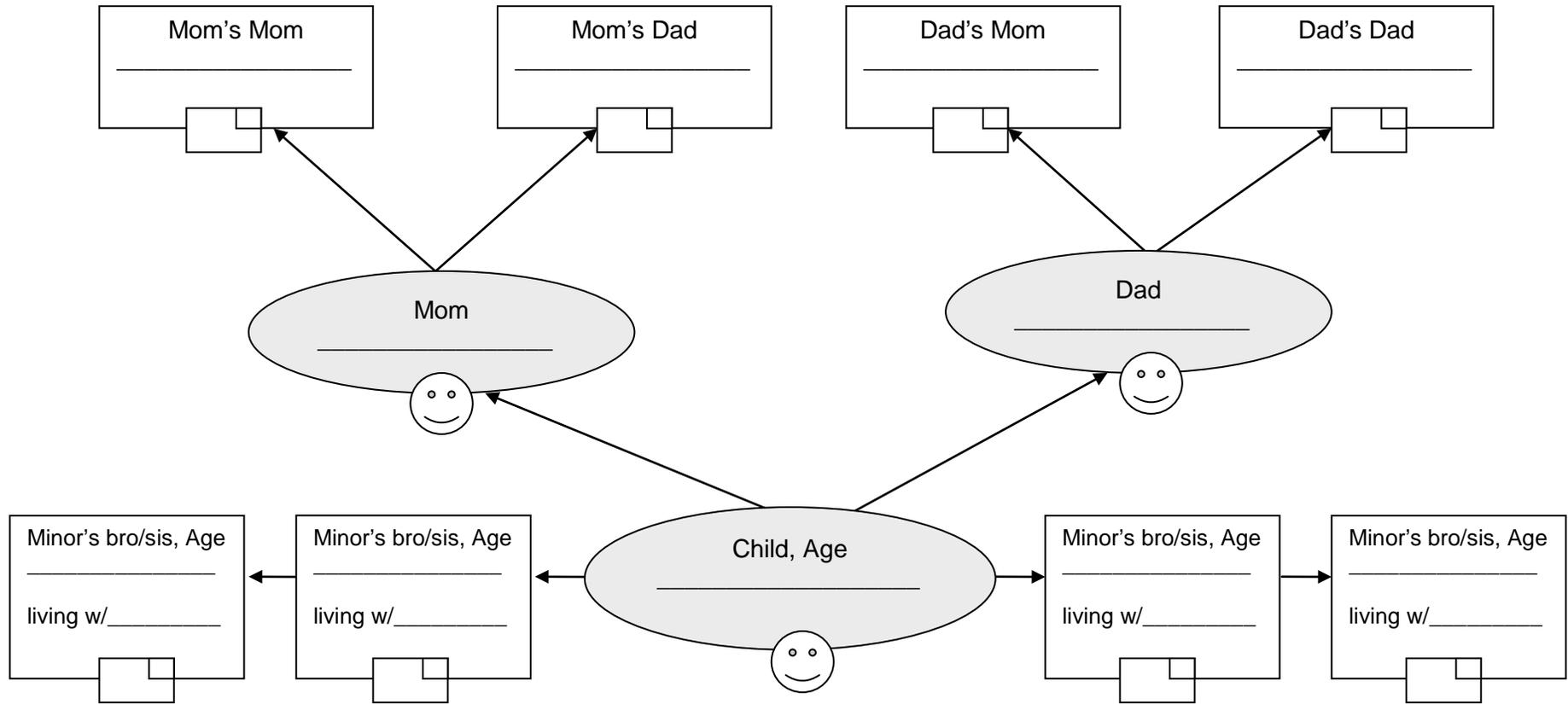
See

(General) Guardianship Forms List.

End

Who Do I Need to Serve? You serve the people in the boxes.

Write in the names, etc., of these people in the boxes.



 = **Mom, Dad & Child (12 or older)** serve in **person, unless** person consents or court excuses. If child is under 12, don't serve at all.

Serve in person only

 = **All grandparents & bros & sis (including 1/2 siblings (even babies),** serve by **mail, unless** person consents (if 12 or older) or court excuses you from serving notice.

Use 1st class stamp to mail to serve

**Why You Need a
Declaration Regarding Notice**

1. Your Job is to search for the blood relatives of the child – checked boxes only:

- father
- mother
- father’s mother
- father’s father
- mother’s mother
- father’ mother
- sisters or brothers (including half-brothers and half-sisters) of the child

Others:

- guardian(s) _____

See [Possible consequences](#) if you don’t do the search.

Why you need to do the search:

- The relatives listed above have the right to know about the petition you filed. They need to know according to the law, including the time, date, and place of the next hearing. This called, “Service of Notice”.
- Until they are served with notice, the court has no authority to make a decision on the petition you filed.
- The court can excuse you from serving them, if you do the search.

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2. How to think about your search

The best way for you to understand what the court expects from your search, is for you to pretend that you are the judge whom you have to convince that you searched for parents, grandparents and siblings. If you do this, you usually will follow the law automatically.

Ask yourself if I were the judge,

- What would convince me that a person had really searched for the child's mother (father or other relative)?
- What did the person do to search? Where did they look? Whom did they talk to? When did they do this?
- Why should I believe them?

Would it convince you, if you were the judge that a person had searched if the only thing they put in their statement (signed under oath and dated) is something like

- "I couldn't find them"
- "They are not interested in the child – they have never paid child support, visited the child, called the child"
- "The mother refused to tell me who the father was"
- "I couldn't go to where they live because I have no transportation"
- "I heard they were in jail somewhere"
- "I called his phone but he never answered"
- "The father is not on the birth certificate"

People who file petitions in Guardianship cases, write these statements all of the time. This is not enough.

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Possible consequences

- You will need to return to court until you give the court information it needs legally
- The information the court needs is on the list called, “Tentative Rulings”. The court will give you a copy on the day of the hearing. This is your ‘To Do’ list.

For example, if you were not able to serve the father and all you put in the form is “I couldn’t find the father”. The court is going to respond by telling you in the “Tentative Rulings” that you still missing:

“Proof of personal service on father or his consent and waiver or verified declaration by petitioner showing diligent efforts made to locate and serve them CRC 7.52”

This means that you have to prove to the court either that

1. You had the father sign a consent and waiver form (**GC-211 item no. 4**) by filing that form with the court

OR

2. You had the father **served in person** by filing both the proof of personal service (GC-020(P)) and the original Notice of Hearing (GC-020) with the court

OR

3. You did a **diligent search and could not find** the father. You would fill out the **Declaration regarding Notice** (Local Form GC-02) and filing it with the court.

The court will then give you another hearing, for around 2 months, and will continue to do this unless you provide the information that the court needs in order to have the authority decide whether or not to grant your petition.

- Each hearing will take your valuable time, energy and may add to your stress

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3. You **need to do the search**, but you don't need to find the person.

If you

- **Find the person**, then you don't do the Declaration re Notice (GC-02)
 - You will need to have them served. See **Service**.
- Or
- They can sign a [Consent and Waiver](#) (GC-211, item no. 4)

- **Don't find** the person, fill out the [Declaration re Notice](#) (GC-02)

END