

JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue • San Francisco, California 94102-3688

www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR22-17

Title	Action Requested
Rules and Forms: Probate Guardianship and Juvenile Dependency Information	Review and submit comments by May 13, 2022
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Adopt form GC-207-INFO/JV-352-INFO; approve forms GC-206-INFO and JV-213; revise forms GC-205-INFO, JV-210, and JV-350-INFO	January 1, 2023
Proposed by	Contact
Family and Juvenile Law Advisory Committee	Sarah Namnama Saria, 916-643-7078 Sarah.Saria@jud.ca.gov
Hon. Stephanie E. Hulsey, Cochair	Corby Sturges, 415-865-4507 Corby.Sturges@jud.ca.gov
Hon. Amy M. Pellman, Cochair	
Probate and Mental Health Advisory Committee	
Hon. Jayne Chong-soon Lee, Chair	

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee and the Probate and Mental Health Advisory Committee propose adopting one form, approving two forms, and revising three forms to implement Assembly Bill 260 (Stats. 2021, ch. 578). AB 260 amended Government Code section 68511.1 to require that the Judicial Council develop a form explaining the nature of a guardianship; the rights, duties, and obligations of a guardian; and the services and supports available to a probate guardian compared with those available to a caregiver in the child welfare system and a guardian appointed by juvenile court. Implementing this section requires adopting one form for mandatory use, revising two forms and converting them from mandatory to optional use, and approving one form for optional use. The bill also amended Probate Code section 1511 to require that notice of the hearing on a petition to appoint a probate guardian include a copy of the new mandatory information form.

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

AB 260 also amended Probate Code section 1513 and Welfare and Institutions Code sections 329 and 331 to expand the process for the probate court to refer a child who is the subject of a guardianship petition to the county child welfare agency for investigation and commencement of juvenile court proceedings if the child is or may be at risk of abuse or neglect as described by Welfare and Institutions Code section 300. The committees propose revising form JV-210 to accommodate its use by the probate court for the child welfare referral and approving form JV-213 for the probate court's use to request juvenile court review under Welfare and Institutions Code section 331 of the agency's decision not to commence proceedings in juvenile court.

Background

AB 260 was enacted to combat “hidden foster care,” a practice in which a child welfare agency, instead of filing a dependency petition, encourages the parents of a child subject to or at risk of abuse or neglect to consent to a “safety plan” of supervised out-of-home placement with a relative.¹ Once the child is placed with the relative, the agency then lets the relative know that it will file a dependency petition and place the child in foster care if the relative caregiver does not petition for appointment as the child’s probate guardian. Among other drawbacks, a probate guardianship does not afford the same services and financial supports as foster care or a juvenile court guardianship. The probate guardianship process lacks other hallmarks of the juvenile court process, such as court-appointed counsel for parents and children and reunification services for the family. These differences are not always appreciated by prospective caregivers and parents considering requesting appointment of a guardian in probate court. The form mandated by Government Code section 68511.1 is intended to educate caregivers and parents so they can make informed decisions about the caregiving arrangement that best suits the needs of the child and family.

AB 260 also clarified the process for probate courts to refer prospective wards to the local child welfare agency when the child is or might be described by Welfare and Institutions Code section 300. When a probate court makes such a referral, a social worker must investigate and report findings and conclusions back to the probate court. If the social worker does not file a petition to begin a dependency case, the probate court can seek juvenile court review of the social worker’s decision and an order requiring the agency to file a dependency petition.

The Proposal

To implement the requirements and procedures enacted by AB 260, the proposal would:

- Adopt *Comparison Between Guardians and Other Nonparent Caregivers* (form GC-207-INFO/JV-352-INFO);

¹ See Assem. Com. on Judiciary, Analysis of Assem. Bill 260 (2021–2022 Reg. Sess.) as introduced, pp.7–9. See generally Josh Gupta-Kagan, “America’s Hidden Foster Care System” (2020) 72 *Stan. L. Rev.* 841, 843–844.

- Approve *Probate Court Request for Juvenile Court Review of Decision Not to Commence Proceedings* (form JV-213) and *Information on Probate Guardianship of the Estate* (form GC-206-INFO); and
- Revise *Guardianship Pamphlet* (form GC-205), retitled and renumbered as *Information on Probate Guardianship of the Person* (form GC-205-INFO); *Becoming a Child's Guardian in Juvenile Court* (form JV-350-INFO), retitled as *Information on Juvenile Court Guardianship*; and *Application to Commence Proceedings by Affidavit and Decision by Social Worker* (form JV-210), retitled as *Application to Commence Juvenile Court Proceedings and Decision of Social Worker*.

Comparison Between Guardians and Other Nonparent Caregivers (form GC-207-INFO/JV-352-INFO)

Using three charts, this information form compares different voluntary and court-ordered caregiving arrangements along with various topics that include rights and duties, available financial supports and services, and appointment processes.

This form is intended to inform prospective guardians about the rights and duties of a guardian and the financial supports and services that are available. The form also serves to inform parents who are considering having a guardian appointed for their child. Because parents and prospective guardians often lack the assistance of attorneys, this form meets a critical need for information that will help families decide which caregiving arrangement might best suit a child's needs.

The three charts include:

- ***What Are the Rights and Duties of Different Types of Caregivers?***
This chart covers a caregiver's duties and authority across a broad range of areas, including custody, residence, health care, and education. The chart contrasts the legal custody and permanence afforded by a guardianship to other types of non-court-ordered childcare arrangements and foster care.
- ***What Services and Supports Are Available to Different Caregivers?***
This chart covers the financial supports and services available to a child and caregiver, depending on the type of caregiving arrangement and whether the caregiver is a relative or nonrelative. Dollar amounts for fiscal year 2021–22 were included in the chart as a point of reference.² A website address is included so readers can get updated payment rates, but staff anticipate updating the chart annually as payment amounts change.
- ***How Do I Become a Guardian? And What Happens After That?***
This chart contrasts the appointment process for a guardian in probate court to the process in juvenile court. Of particular importance for readers is the presence of court oversight and the involvement of social workers in a juvenile guardianship.

² These amounts will be updated to reflect the rates in effect in fiscal year 2022–2023 if the forms are presented to the Judicial Council for approval in October 2022.

This comparison form will be complemented by three cross-referenced forms that offer more detailed discussions: two revised forms, GC-205-INFO and JV-350-INFO, and one new form, GC-206-INFO. Putting more detailed information in three complementary forms serves to streamline the lengthier comparison form.

Information on Probate Guardianship of the Person (form GC-205-INFO)

Originally adopted as *Guardianship Pamphlet* (form GC-205) to provide information about probate guardianships of the person and of the estate, this form would focus solely on probate guardianship of the person. This revision is proposed in part to allow the form to expand on summary explanations of issues related to nonparental child custody in the comparison form (GC-207-INFO/JV-352-INFO) without increasing its length, and in part to complement the explanations in the juvenile court guardianship information form (JV-350-INFO), which also focuses on custodial issues.

Information on Probate Guardianship of the Estate (form GC-206-INFO)

This form would describe and explain the role and duties of a probate guardian of the estate. It would supplement revised *Information on Probate Guardianship of the Person* (form GC-205-INFO) and the new comparison form (GC-207-INFO/JV-352-INFO) by addressing guardianships of the estate separately because of the rarity of their establishment.

Information on Juvenile Court Guardianship (form JV-350-INFO)

This form would be revised to work with the comparison form (GC-207-INFO/JV-352-INFO) by giving more in-depth information about the nature of a juvenile guardianship. Included in this form is a section on the differences between a foster parent and a guardian, which is of particular importance to foster parents who may later decide to seek appointment as a child's guardian.

Application to Commence Juvenile Court Proceedings and Decision of Social Worker (form JV-210)

Form JV-210 would be revised for a probate court's use, under Probate Code section 1513(b), to refer a child who is the subject of a guardianship petition to the local child welfare agency for investigation and commencement of juvenile court proceedings if the child is or may be at risk of abuse or neglect as described by Welfare and Institutions Code section 300. The revised form has four sections. The first section asks for information about the child and family. The second is tailored for use by individual applicants, and the third is designed for the probate court's use. The last section remains for the social worker's response to the application or referral.

Probate Court Request for Juvenile Court Review of Decision Not to Commence Proceedings (form JV-213)

Form JV-213 would provide a form for a probate court to use, as authorized by Probate Code section 1513(b)(4), to request juvenile court review of an agency's decision not to commence proceedings and an order requiring the agency to file a dependency petition under Welfare and Institutions Code section 331(b).

Alternatives Considered

The committees did not consider alternatives to adopting form GC-207-INFO/JV-352-INFO and revising the other information forms, though they did consider allocating information differently among the forms. The forms, as circulated, reflect the committees' determination of the most effective allocation of information for self-represented persons using these forms to make informed decisions about childcare arrangements.

The committees also considered revising *Application to Review Social Worker's Decision Not to Commence Proceedings* (form JV-212) to accommodate a probate court's request for juvenile court review of the agency's decision not to file a dependency petition. The committees determined, however, it would be less confusing for self-represented persons using form JV-212 to apply for juvenile court review to develop a separate form for use by the probate court.

Fiscal and Operational Impacts

Government Code section 68511.1 requires the adoption of a form describing the nature and duties of guardianship and form GC-207-INFO/JV-352-INFO is intended to fulfill that mandate. Probate Code section 1511(a) requires that notice of the hearing on a petition to appoint a probate guardian include a copy of that form. The trial courts will incur ongoing costs to print, copy, and provide this statutorily mandated form to petitioners and other interested persons. These costs, however, are expected to be minimal, as is the additional work for court staff. These costs may, to some extent, be offset by more efficient guardianship proceedings requiring fewer continuances because litigants, especially self-represented litigants, will be better informed.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committees are interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Should the committees recommend statewide rules of court to specify internal superior court procedures for a probate court to request juvenile court review under Probate Code section 1513(b) and a juvenile court to respond under Welfare and Institutions Code section 331(b)?

The advisory committees also seek comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Forms GC-205-INFO, GC-206-INFO, GC-207-INFO/JV-352-INFO, JV-210, JV-213, and JV-350-INFO, at pages 7–38
2. Link A: Assembly Bill 260 (Stats. 2021, ch. 578),
https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=202120220AB260&showamends=true

1. WHAT IS A GUARDIANSHIP?

A guardianship is a court-ordered legal relationship that gives an adult, usually someone other than a parent, certain rights, powers, and duties regarding a minor child, the child's property, or both.

A **guardian of the person** is given legal authority and responsibility over the care, custody, and control of the child, and is responsible for the child's education. Unless the court limits the powers and duties of the guardian, a guardian of the person typically holds the same rights as a custodial parent with respect to the child. The appointment of a guardian of the person completely suspends the parents' custodial rights and duties, and transfers those rights to the guardian for as long as the guardianship lasts. The appointment of a guardian does not, however, terminate parental rights without additional action by the guardian and the court.

A **guardian of the estate** is charged with managing and preserving money and other property belonging to a child until the child reaches 18 years of age.

This form gives general information about a *guardianship of the person* under the Probate Code. It discusses:

- Alternatives to guardianship;
- Nomination of a guardian;
- Who can be appointed as a guardian;
- How to ask the probate court to appoint you or someone else as guardian;
- How to formalize the appointment;
- The rights and duties of a guardian of the person;
- Court oversight, removal, and replacement of the guardian; and
- How and when a guardianship can end.

NOTE: This form explains guardianships of the person only. Guardianships of the estate are explained in *Information on Probate Guardianship of the Estate* (form GC-206-INFO).

This form does not give information about becoming the legal guardian of a child who is under juvenile court jurisdiction. For information on that topic, please see *Information on Juvenile Court Guardianship* (form JV-350-INFO). *Comparison Between Guardians and Other Nonparent Caregivers* (form GC-207-INFO/JV-352-INFO) compares informal childcare arrangements, juvenile court-ordered out-of-home childcare placements, and guardianships of the person.

Information about guardianships of the person and the other childcare arrangements discussed in this form is available from a licensed attorney, the [California Courts Online Self-Help Center](#), and private publications and resources. You should also consult your local superior court clerk's office or *Self-Help Center* to learn about any special procedures or rules in your court.

2. ARE THERE CHILDCARE ARRANGEMENTS THAT DO NOT REQUIRE A COURT ORDER?

Yes. Custodial parents can make arrangements for their child to live with an adult who is not a parent and give that adult permission to make childcare decisions without going to court. These arrangements can be useful if no parent is able or available to take care of the child for a limited time. For example, the custodial parent may be ill, may be hospitalized, detained, deported, incarcerated, or deployed on active military duty.

If a parent allows an adult relative or friend to take temporary care of a child, some service providers will question the caregiver's authority to make decisions and to give permission for the child's activities or treatment. For example, a school may require proof of the caregiver's right to enroll a child in school, or a health care provider may require a written document that shows parental consent to medical or dental care.

NOTICE

Under California law, a custodial parent cannot agree to give their legal rights and responsibilities regarding their child to another person without a court order. Regardless of parental consent, only a court can order legal and physical custody taken from a parent and given to a nonparent. This can happen in a few different types of court proceedings, including a family law child custody proceeding, a probate guardianship of the person, an adoption, and a juvenile court proceeding.

Page 2 of this form discusses some informal childcare arrangements. Under the first two alternatives (items 2a and b), the custodial parent keeps all parental rights and duties and temporarily shares some of their rights with the nonparent caregiver. The parent can veto any of the caregiver's childcare decisions. Under all three arrangements discussed on page 2, the parent can cancel or end the caregiver's rights at any time.

2. CHILDCARE ARRANGEMENTS THAT DO NOT REQUIRE A COURT ORDER (continued)

a. Caregiver's Authorization Affidavit

The Family Code allows an adult, other than a parent, with whom a child is living to complete and sign a *Caregiver's Authorization Affidavit* (CAA) and make certain decisions for the child. A completed CAA authorizes a *nonrelative* caregiver to enroll the child in school and consent to the child's school-related medical care. A *relative* caregiver who provides additional information on the CAA also has authority to consent to the child's medical and dental care and limited authority over a child's mental health care.

Family Code section 6550 authorizes the use of the affidavit. Section 6552 lays out the required contents of the affidavit form. You can find a sample of the form here: www.courts.ca.gov/documents/caregiver.pdf. A hard copy may be available from your superior court clerk's office or self-help center, or the county public law library.

A CAA does not need to be filed in court, but it must be signed under penalty of perjury. A CAA does not affect the decision-making rights of the child's parents and does not give the caregiver custody of the child. The child's parents can take the child to live with them at any time, even if the caregiver does not think it is best for the child.

NOTE: Some schools and health care providers may not recognize the authority of a caregiver based only on the affidavit. In some circumstances, a caregiver may also be required to get resource family approval to exercise authority under the affidavit.

b. Informal childcare agreement

If the parents who have legal and physical custody of a child agree, they can make a written agreement with another adult to take care of their child for a limited time. This arrangement is similar to a CAA, but the parents initiate and are active parties to the agreement. The parents keep full decision-making authority, and the caregiver has only the powers expressly granted in the agreement.

Nevertheless, a private agreement may be useful if a custodial parent will be unavailable to make childcare decisions for a defined period of time, such as an active-duty military deployment, and the parent wants to give the caregiver more authority than is allowed by the CAA. If you are considering entering into a childcare agreement like this, you are encouraged to consult with an attorney experienced in child custody or guardianship law.

c. Voluntary Placement Agreement

In some circumstances, a parent can also voluntarily give temporary care and custody of their child to a child welfare agency, probation department, or tribe without a court order. This *Voluntary Placement Agreement* (VPA) must satisfy certain legal conditions; specify the child's legal status and the rights and obligations of the parents, the child, and the agency taking custody of the child; and be documented on *Voluntary Placement Agreement—Placement Request* (California Department of Social Services form SOC 155), available at: <https://cdss.ca.gov/cdssweb/entres/forms/English/soc155.pdf>.

Under a VPA, the child is placed in foster care, which includes placement in the home of a relative or nonrelative extended family member if possible. The child may be eligible for foster care benefits, but the parents may also be required to pay for a portion of the child's care. The agreement usually lasts for 6 months, but it may be extended for an additional 6 months for a total period not to exceed 12 months. Parents can terminate the agreement at any time.

d. Before filing a petition for appointment of a guardian, it may be useful to think about the following questions:

- Does the child really need a guardianship?
- What alternatives, such as those discussed above, are available?
- Would any of those alternatives be better for the child?
- Do the parents know about the alternatives and agree to the guardianship?
- If the parents don't agree, is there enough evidence to show the court that the child needs a guardian?
- Do you need legal advice or assistance?

3. CAN A PARENT OR OTHER PERSON NAME WHO THEY WANT TO BE THE GUARDIAN OF THE PERSON?

A parent, and only a parent, can *nominate* a guardian of the person for a child if the other parent(s) nominate, or consent in writing to the nomination of, the same guardian for that child; or, at the time the petition for appointment is filed, the other parent(s) are dead or lack legal capacity to consent to the nomination or the consent of the other parent would not be required for the child's adoption. Even if the parent does nominate a guardian, the court must still decide whether appointment of that person would be in the child's best interest. (See item 8, below.)

The parent may make the nomination in the petition for appointment, at the hearing on the petition, or in a writing signed before or after the petition is filed. The nomination may state that the parent wants the nominee, if appointed, to have the same authority over the child as a parent with legal custody would have and to be able to exercise that authority without court oversight to the same extent as a parent with legal custody would be able to.

3. CAN A PARENT OR OTHER PERSON NAME WHO THEY WANT TO BE THE GUARDIAN OF THE PERSON? (continued)

The nomination is effective when made, except that a written nomination may provide that the nomination takes effect only when a specified event or events, including the parent's later legal incapacity, detention, or death, has occurred.

Unless a written nomination provides otherwise, the nomination remains in effect even if the parent dies or is later determined to lack legal capacity.

NOTE: Even if a parent has nominated the proposed guardian, the parent is entitled to notice of the hearing, a copy of the petition, and a copy of *Comparison Between Guardians and Other Nonparent Caregivers* (form GC-207-INFO/JV-352-INFO).

4. WHO CAN BE APPOINTED AS A GUARDIAN OF THE PERSON?

The court may appoint any adult—including a relative, a friend of the family, or another interested person—as a child's guardian of the person. The court may *not* appoint a parent unless the parent is terminally ill and is appointed as co-guardian with a nonparent.

5. WHO CAN PETITION FOR APPOINTMENT OF A PROBATE GUARDIAN?

A relative or other person, including the child if 12 years old or older, can file a petition asking the court to appoint a guardian. The person who files the petition doesn't need to be the same person as the one who asks to be appointed as guardian, but it usually is. This information form assumes that the same person is filing the petition *and* asking to be appointed guardian.

6. FILING THE PETITION AND GIVING NOTICE OF THE HEARING

- Once a person has decided that a child needs a guardian appointed, the first step in the process of establishing guardianship is to complete *Petition for Appointment of Guardian of Minor* (form GC-210) or *Petition for Appointment of Guardian of the Person* (form GC-210(P)) and all other required documents, then file the forms with the clerk of the court in the county where the child lives unless it would be better, for the child, to file the petition in a different county. A list of statewide forms that need to be filed with a petition for appointment of a guardian of the person is available on *Forms You Need to Ask the Court to Appoint a Guardian of the Person* (form GC-505). Some courts have additional local forms that need to be filed along with the statewide forms.

The petition needs to ask the court to appoint a guardian of the person or a guardian of both the person and the estate; give the proposed guardian's name and address and the child's name and date of birth; and state that the appointment is "necessary or convenient." The petition must also give the names and addresses of the child's parents and other persons who have specific relationships with the child. If the child is an Indian child, the petition must state that fact and give the name and address of any Indian custodian and the child's tribe. The petition must also tell the court whether there are any adoption, child custody, juvenile court, family law, or other guardianship proceedings affecting the child in progress in California or any other state or country.

The court charges a fee for filing a guardianship petition. If the child or the child's estate cannot afford to pay the fees, the petitioner may request that the court waive the fee requirement. The court clerk can provide the required fee waiver forms.

- Before the court can hold a hearing to decide the petition, the person who filed the petition must give **notice** of the hearing to specific persons unless the court finds that the petitioner tried diligently and couldn't give notice to a person or that notice would be against the interests of justice. The notice must include a copy of the petition and a copy of *Comparison Between Guardians and Other Nonparent Caregivers* (form GC-207-INFO/JV-352-INFO).

Notice must be given to the child if 12 years old or older, the parents, anyone else with legal custody, and anyone nominated to be the guardian by serving them personally or, if that is not possible, by first-class mail with an acknowledgment of receipt requested. For more information about service of notice, see *What Is "Proof of Service" in a Guardianship?* (form GC-510). Other persons may be given notice personally, by mail, or, if they consent, electronically. If the child is an Indian child, notice must be mailed to any Indian custodian and the child's tribe as required by the Indian Child Welfare Act.

7. INVESTIGATION

- Guardianship investigation*

Unless it finds a good reason not to, the court will order an investigation before the hearing on the petition to appoint a guardian. The court investigator (if the proposed guardian is the child's relative) or the county social worker (if the proposed guardian is not a relative) will contact you, the child, and any other persons who might know about the child's family and their needs. The investigator will give a report to the court and make a recommendation on what decision the court should make.

The court or county charges a fee for conducting the guardianship investigation. The court can waive its fee if it would cause a hardship to the child or the child's estate. The county may also waive its fee because of hardship.

- Child welfare referral and investigation*

If the probate court thinks the child has been, or is at risk of being, abused or neglected by a parent, the court may refer the child to the county child welfare agency for an investigation and commencement of juvenile court proceedings. If the probate

7. INVESTIGATION (continued)

- b. court makes a referral, the guardianship proceedings are paused, but the probate court can make any order necessary to protect the child, including an order appointing a temporary guardian or issuing a temporary restraining order.

If, after three weeks, the agency has not notified the probate court that it has filed a petition to begin proceedings in juvenile court, the probate court or the child's attorney, if the probate court has appointed one, may file a request with the juvenile court to review the agency's decision not to begin juvenile court proceedings and to order the agency to file a petition to begin those proceedings.

If the juvenile court begins proceedings, the guardianship proceedings must remain paused. If the juvenile court does not begin proceedings, the probate court can hold a hearing and decide whether to appoint a guardian.

8. HEARING AND STANDARD FOR APPOINTMENT

An interested person may appear and object or respond to the petition *in writing* at or before the hearing. In addition, an interested person may appear and object or respond *orally* at the hearing. If no one objects, the court may decide the matter on the verified petition and declarations. If a person objects, then the court will consider evidence, determine any issues, and make appropriate orders.

Based on its determination of the child's best interest, the court may grant the petition, may grant another person's petition, or may find that the child doesn't need a guardianship and deny all the petitions. The probate court may appoint a guardian for a child when the appointment is "**necessary or convenient**." This can happen if no parent is willing, available, or suitable to have care, custody, and control of the child. A parent may not be able to care for the child because of the parents' death, incapacity, military obligations, detention, or other reasons. The petitioner must prove to the court that a guardianship is needed.

Appointing a *guardian of the person* may be necessary or convenient if the court decides that the appointment is in the child's **best interest**, the same standard a family court uses to decide whether to order custody given to a nonparent in a child custody proceeding. If a parent objects to the appointment of a guardian of the person, the court must find that remaining in or returning to parental custody would be **detrimental** to (or not good for) the child. The longer a child has been living safely with the proposed guardian, the more likely a court is to find that returning to the parents is detrimental to the child or not in the child's best interest.

9. AFFIRMATION AND LETTERS

For your appointment as guardian to be valid, the court must sign the *Order Appointing Guardian of Minor* (form GC-240). Once the court signs the order, you will need to complete *Letters of Guardianship* (form GC-250) and take both forms to the clerk's office. After you have affirmed that you will perform the duties of a guardian according to law, the clerk will issue *Letters of Guardianship*, a legal document that is proof that you have been appointed and are serving as the guardian for the child. The clerk will keep the original *Letters* in the case file, but you should buy a certified copy from the clerk. Make copies of the certified copy, then keep the certified copy in a safe place. Having a copy of the *Letters* will help you perform your duties, such as enrolling the child in school and obtaining medical care, by showing officials and service providers that you have the legal authority to act on the child's behalf.

10. RIGHTS AND DUTIES

a. Basic rights and general duties

A guardian of the person generally has the same rights to legal and physical custody of the child as a parent. If a parent nominates a person as guardian and that person is appointed by the court, the court will grant the guardian, to the extent provided in the nomination, the same rights and duties regarding the child as a custodial parent unless the court finds good cause to withhold any of them. In other circumstances, however, the court can order the guardian to get court approval before taking specific actions for which a parent would not need court approval. The order of appointment and the *Letters* will state whether the court has placed limits on the guardian's authority.

A guardian is responsible for providing for food, clothing, shelter, education, and all the medical and dental needs of the child. A guardian must provide for the safety, protection, and physical and emotional growth of the child. Like a parent, a guardian should maintain close contact with the child's school and physician.

If the child has special needs, a guardian must strive to meet those needs or secure appropriate services. Some children may have physical or learning disabilities. Other children come from abusive homes or have been victims of abuse. Counseling and other services may be necessary to assist a child who has special needs or has had difficult or traumatic life experiences.

b. Custody and visitation

A guardian of the person has full legal and physical custody of the child and is responsible for all decisions relating to the child. The child's parents can no longer make decisions for the child during a guardianship. The parents' rights are completely suspended—not terminated—as long as the guardianship remains in effect. Unless the court makes an order specifying the persons the child may visit with and when, the guardian has the authority to decide whether the child can visit with anyone, including the parents.

10. RIGHTS AND DUTIES (continued)

NOTE: After a child, other than an Indian child, has lived with a guardian for at least two years and the court finds that adoption by the guardian would be in the child's best interest, a proceeding to have the child declared free from parental custody and control may be brought in the guardianship proceeding, in an adoption proceeding, or in a separate action. The procedures and rights, including the parents' right to notice and counsel, in Family Code sections 7800–7895 apply to this proceeding.

c. Residence

A guardian of the person has the right to decide where the child lives. The child normally lives with the guardian, but the guardian can make other arrangements if they are in the best interest of the child. The guardian should check with the court before placing the child to live with the parents.

A guardian must give proper written notice to the court and other persons of any change of address of either the child or the guardian. A guardian must get permission from the court before changing the child's address to a place outside California.

d. Education

A guardian of the person holds the child's educational rights and is responsible for the child's education. The guardian determines where the child will attend school and helps the child set and attain educational goals. As the child's advocate with the school system, the guardian should attend teacher conferences and play an active role in the child's education. The guardian of a younger child may want to consider enrolling the child in Head Start or another similar program. The guardian of an older child should consider the child's future educational needs, such as college or a specialized school. The guardian must assist the child in obtaining services if the child has special educational needs.

e. Health care

A guardian of the person is responsible for meeting the child's medical, dental, and mental health needs. In most cases, the guardian has the authority to consent to the child's medical treatment. However, if the child is 14 years old or older, surgery may not be performed on the child unless either (1) both the child and the guardian give consent or (2) a court order is obtained that specifically authorizes the surgery. This holds true except in emergencies.

A guardian of the person may not place a child in a mental health treatment facility against the child's wishes. A mental health conservatorship proceeding is required for such an involuntary commitment. However, the guardian should arrange counseling and other mental health services for the child if appropriate.

In certain situations, the law allows older and more mature children to consent to their own treatment, including outpatient mental health treatment, medical care related to pregnancy or sexually transmitted diseases, and drug and alcohol treatment.

f. Financial support

Even when the child has a guardian, the parents are still obligated to support the child financially. The guardian may take action to obtain child support. You may contact the local child support agency in your county to collect support from a parent. The child may also be eligible for Temporary Aid for Needy Families (TANF; formerly known as AFDC), Social Security benefits, Veterans Administration benefits, Indian child welfare benefits, and other public or private funds.

g. Consent to changes to the child's legal status

A guardian of the person has the authority to consent to or give permission for many decisions the child may make in the transition to independent adulthood. These include:

(1) Application for a driver's license

A guardian who consents to a child's driver's license application becomes liable for any civil damages that result if the minor causes an accident. The law requires that anyone signing the DMV application obtain insurance to cover the minor.

(2) Enlistment in the armed services

The guardian has the authority to consent to a minor's enlistment in the armed services. If the minor enters into active duty with the armed forces, the minor becomes emancipated under California law, and the guardianship ends.

(3) Marriage

For the child to get married, both the guardian and the court must give permission. If the minor enters a valid marriage, the minor becomes emancipated under California law, and the guardianship ends.

(4) Application for a United States passport

A guardian has the authority to apply for a United States passport for the child.

h. Liability for child's misconduct

A guardian, like a parent, is liable for the harm and damages caused by the willful misconduct of a child. There are special rules concerning harm caused by the use of a firearm. If you are concerned about your possible liability, you should consult an attorney.

10. RIGHTS AND DUTIES (continued)**i. Additional responsibilities**

The court may place other conditions on the guardianship or additional duties on the guardian. For example, the court may require the guardian to complete counseling or parenting classes, to obtain specific services for the child, or to follow a scheduled visitation plan between the child and the child's parents or relatives. The guardian must follow all court orders.

j. Community resources

Each county has agencies and service providers that can help a guardian fulfill their duties to the child, including meeting the specific needs of a child who comes from a conflict-filled, troubled, or deprived environment. If the child has special needs, you must strive to meet those needs or secure appropriate services. Some children have physical or learning disabilities. Other children come from abusive homes or have been victims of abuse. A child who has special needs or has had traumatic life experiences may need counseling and other services. To find resources and get referrals, check with the court, your local child welfare agency, or even a support group for guardians. If you are a relative, you can start by visiting the California Kinship Navigator, at www.getvirtualsupport.org/app/.

11. COURT OVERSIGHT OF GUARDIAN

The guardian is subject to the regulation and control of the court in performing their duties. To the extent resources are available, the court will require the guardian to complete and submit annual status reports to the court. Confidential Guardianship Status Report (form GC-251) must be used for this report. The report must provide information about the child's residence, education, physical and emotional health, other persons the child lives with, the child's relationship with the parents, and whether the guardianship is still needed. If the guardian, the child, or another interested person wants the court to decide whether the guardian has the authority or duty to take or not take a specific action, they can file a petition. After a noticed hearing, the court will decide and make orders.

In addition, some counties have "court visitors," who track and review guardianships. In a county with such a program, a guardian is expected to cooperate with all requests of the court visitor. And no matter the county, the guardian must always cooperate with the court and court investigators.

12. REMOVAL AND REPLACEMENT OF GUARDIAN

After a noticed hearing on a petition filed by the child, a relative or friend of the child, or any other interested person, the probate court may remove a guardian for specific reasons or when it is in the child's best interest. The court may also suspend the powers of the guardian until it can hold a hearing on the petition for removal. A guardian may also file a petition to resign, and, if the court determines after a hearing that the resignation appears proper, the court must allow it.

If for any reason there is a vacancy, the court may appoint a successor guardian after notice and a hearing as in the case of the original appointment.

13. TERMINATION OF GUARDIANSHIP

A guardianship of the person automatically ends when the child reaches age 18, or one of the following events occurs before the child reaches age 18:

- The child is adopted;
- The child is emancipated by getting married, enlisting in the military, or court order;
- The child requests the extension of the guardianship in connection with an application for Special Immigrant Juvenile status; or
- The child dies.

If none of these events has occurred, the child, a parent, or the guardian may petition the court for termination of guardianship before the child reaches age 18. To terminate the guardianship, the court must find that termination is in the child's best interest. If no other custodial arrangement is ordered, the child returns to parental custody.

14. LEGAL ADVICE AND RESOURCES

If you have an attorney, the attorney will advise you on a guardian's rights and responsibilities, the limits of a guardian's authority, the rights of the child, and dealings with the court. If you have legal questions, you should consult your attorney. Please remember that court staff cannot give you legal advice.

If you are not represented by an attorney, the court's self-help center may, however, give you legal information and help you fill out any forms you need to file. You might also find some answers to your questions by contacting community resources, researching private publications, or visiting your county's public law library.

GC-206-INFO Information on Probate Guardianship of the Estate

This form is about acting as a *guardian of the estate* to manage a child's money or other property and preserving it until the child reaches 18 years of age.

The form explains:

- What is a guardianship of the estate and who can be appointed as one;
- Who can nominate a guardian of the estate, and how;
- The court process for appointment of a guardian of the estate;
- The powers, duties, and liabilities of a guardian of the estate;
- The court's authority to oversee the guardian of the estate in the performance of the guardian's duties; and
- The procedures for removing and replacing a guardian or terminating a guardianship of the estate.

For information about acting as the *guardian of the person* of a child, read Judicial Council form GC-205-INFO. For information about acting as the guardian of the person of a child who has a *juvenile court* case, read Judicial Council form JV-350-INFO.

For more information, visit the California Courts website at www.courts.ca.gov/selfhelp-guardianship.htm or talk to a lawyer with experience in probate law. Learn how to find a lawyer on the website at www.courts.ca.gov/selfhelp-findlawyer.htm.

NOTE: This form explains guardianships of the estate only. Guardianships of the person are explained in *Information on Probate Guardianship of the Person* (form GC-205-INFO).

1 What is a guardian of the estate?

A guardian of the estate is a person appointed by the probate court to take control of a child's money or other property, manage that property, and preserve it for the child until the child reaches the age of 18 and can take control of the property for themselves. The court takes appointment of a guardian of the estate very seriously, and the law requires the guardian to collect and make an inventory and appraisal of the property, keep accurate financial records, and file regular financial accountings with the court. The use of an attorney for legal advice in managing the estate is highly recommended.

Before filing a petition to appoint a guardian of the estate, you should think about the following questions:

- Does the child really need a guardianship?
- What alternatives are available?
- Would any of the alternatives be better for the child?
- Do the parents agree to the guardianship?
- If the parents don't agree, is there enough evidence to show that the child needs a guardian?
- Do you need legal advice or assistance?

2 Are there alternatives to guardianship of the estate?

Yes. The law allows a parent or any other person from whom the child receives property to make financial arrangements for the child's property. For example, money received by a child may be deposited in a blocked account, accessible only in specified circumstances until the child reaches 18 years of age. This and other protective measures can be used without the appointment of a guardian of the estate. These financial arrangements can be complicated; consultation with an attorney before choosing one over another is highly encouraged.

Note: Some financial institutions, insurance companies, and courts require the appointment of a guardian of the estate before they will release funds to a person acting on behalf of a minor child.

3 Who can be appointed as a guardian of the estate?

To become the court-appointed guardian of a child's estate, you must:

- Be an adult (18 years old or older); and
- Demonstrate that your appointment would be in the best interest of the child, considering both:
 - Your ability to manage and preserve the child's estate (money and property); and
 - Your concern for and interest in the welfare of the child.

4 Can a parent or other person name a person they want to be appointed as guardian?

Yes. A parent can *nominate* a guardian of the estate if:

- The other parent(s) nominate or consent *in writing* to the nomination of the same guardian for the same child; or
- At the time the petition for appointment is filed, either the other parent(s) are dead or lack legal capacity to consent, or the consent of the other parent(s) would not be required for adoption of the child.

In addition, any person from whom, or by designation of whom, a minor child receives property may nominate a guardian of that property.

The nomination must be made in the petition for appointment of the guardian, at the hearing on the petition, or in a writing signed either before or after the petition is filed.

A nomination made as described above is valid when it is made, except that a written nomination may provide that the nomination takes effect only if one or more events specified in the writing, including the later incapacity, detention, or death of the person making the nomination, happens.

Unless the writing making the nomination provides expressly that it does not, a nomination remains effective even if the person making the nomination dies or later becomes legally incapacitated.

5 Who can file a petition for appointment of a guardian of the estate?

A relative or other person, or the child if 12 years of age or older, may file a petition for appointment of a guardian in probate court using *Petition for Appointment of Guardian of Minor* (form GC-210) in probate court.

THE APPOINTMENT PROCESS

6 Filing the petition

Once a person has decided that a child needs a guardian, the first step in the process is to complete *Petition for Appointment of Guardian of Minor* (form GC-210) and all other required documents, then file the forms with the clerk of the court in the county where the child lives unless it would be better *for the child* if you filed in a different county. Some courts have additional local forms that need to be filed along with the statewide forms.

The petition needs to ask the court to appoint a guardian of the estate or a guardian of both the person

and the estate; give the proposed guardian's name and address and the child's name and date of birth; and state that the appointment is necessary or convenient. The petition must also give the names and addresses of the child's parents and other persons who have specific relationships with the child. If the child is an Indian child, the petition must state that fact and give the name and address of any Indian custodian and the child's tribe. The petition must also tell the court whether there are any adoption, child custody, juvenile court, family law, or other guardianship proceedings affecting the child in progress in California or any other state or country. The court charges a fee for filing a guardianship petition. If the child or the child's estate cannot afford to pay the fees, the petitioner may request that the court waive the fee requirement. The court clerk can provide the required fee waiver forms.

7 Notice of the hearing

Before the court can hold a hearing to decide the petition, the person who filed the petition must give *notice* of the hearing to specific persons unless the court finds that the petitioner tried diligently and couldn't give notice to a person or that notice would be against the interests of justice. The notice must include a copy of the petition and a copy of *Comparison Between Guardians and Other Nonparent Caregivers* (form GC-207-INFO/JV-352-INFO).

Notice must be given to the child if 12 years old or older, the parents, anyone else with legal custody, and anyone nominated to be the guardian by serving them personally or, if that's not possible, by first-class mail with an acknowledgment of receipt requested. For more information about *service of notice*, see *What Is "Proof of Service" in a Guardianship?* (form GC-510). Other persons may be given notice personally, by mail, or, if they consent, electronically. If the child is an Indian child, notice must be mailed to any Indian custodian and the child's tribe as required by the Indian Child Welfare Act.

GC-206-INFO Information on Probate Guardianship of the Estate

8 Investigation

Unless it finds a good reason not to, the court will order an investigation before the hearing on the petition to appoint a guardian. The court investigator (if the proposed guardian is the child's relative) or the county social worker (if the proposed guardian is not a relative) will contact you, the child, and any other persons who might know about the child's family and their needs. The investigator will give a report to the court and make a recommendation on what decision the court should make.

The court or county charges a fee for conducting the guardianship investigation. The court can waive its fee if it would cause a hardship to the child or the child's estate. The county may also waive its fee because of hardship.

If someone objects to the appointment of a guardian or to the petitioner's appointment as guardian at or before the hearing, the court may decide it needs to hold a trial. Based on its determination of the child's best interest, the court may grant the petition, may grant another person's petition, or may find that the child doesn't need a guardianship and deny all the petitions.

If the probate court thinks the child has been, or is at risk of being, abused or neglected by a parent, the court may refer the child to the county child welfare agency for an investigation and commencement of juvenile court proceedings. If the probate court makes a referral, the guardianship proceedings are paused, but the probate court can make any order necessary to protect the child, including an order appointing a temporary guardian or issuing a temporary restraining order.

If, after three weeks, the agency has not notified the probate court that it has filed a petition to begin proceedings in juvenile court, the probate court or the child's attorney, if the probate court has appointed one, may file a request with the juvenile court to review the agency's decision not to begin juvenile court proceedings and to order the agency to file a petition to begin those proceedings.

If the juvenile court begins proceedings, the guardianship proceedings must remain paused. If the juvenile court does not begin proceedings, the probate court can hold a hearing and decide whether to appoint a guardian.

9 Hearing and standard for appointment

An interested person may appear and object or respond to the petition *in writing* at or before the hearing. In addition, an interested person may appear and object or respond *orally* at the hearing. If no one objects, the court may decide the matter on the verified petition and declarations. If a person objects, then the court will consider evidence, determine any issues, and make appropriate orders.

Based on its determination of the child's best interest, the court may grant the petition, may grant another person's petition, or may find that the child doesn't need a guardianship and deny all the petitions. The probate court may appoint a guardian for a child when the appointment is "**necessary or convenient.**" The petitioner must prove to the court that a guardianship is needed.

The court must appoint the person nominated as guardian of the estate unless the court determines that the nominee is not suitable. Subject to the preference for a nominee, the court will consider the best interest of the child, taking into account the proposed guardian's ability to manage and preserve the estate property and their concern for and interest in the welfare of the child. If the child is old enough to form an intelligent preference about whom should be appointed, the court must also consider that preference.

10 Oath, letters, and bond

For your appointment as guardian to be valid, the court must sign the *Order Appointing Guardian of Minor* (form GC-240). You will then need to complete *Letters of Guardianship* (form GC-250) and take both forms to the clerk's office. After you have affirmed that you will perform the duties of a guardian according to law and posted the court-ordered bond, the clerk will issue *Letters of Guardianship* as proof that you have been appointed and are serving as the guardian of the child's estate. The clerk will keep the original *Letters* in the case file. You should buy a certified copy from the clerk, make copies of it for use, and keep the certified copy in a safe place. The *Letters* will help you perform duties, such as opening accounts or making investments, by showing banks and other financial institutions that you have the legal authority to act on the child's behalf.

GC-206-INFO Information on Probate Guardianship of the Estate

MANAGING THE ESTATE—POWERS AND DUTIES

11 Prudent investments

As guardian of the estate, you must manage the child's money and property with the care of a prudent person dealing with someone else's property. This means that you must be cautious and may not make speculative or risky investments.

12 Separation of estate money and property

As guardian of the estate, you must keep the money and property of the child's estate separate from everyone else's, including your own. When you open a bank account for the estate, the account name must indicate that it is a *guardianship* account and not your personal account.

You should use the child's Social Security number when opening estate accounts. You should never deposit estate funds in your personal account or otherwise mix them with your own funds or anyone else's funds, even for brief periods.

Securities in the estate must be held in a name that shows that they are estate property and not your personal property.

13 Interest-bearing accounts and other investments

Except for checking accounts intended for ordinary expenses, you should place estate funds in interest-bearing accounts. You may deposit estate funds in insured accounts in federally insured financial institutions, but you should not put more than \$250,000 in any single institution. You should consult with an attorney before making other kinds of investments.

14 Blocked accounts

A *blocked account* is a type of account with a financial institution in which money or securities are placed. No person may withdraw funds from a blocked account without the court's permission.

Depending on the amount and character of the child's property, the guardian may elect **or the court may require** that estate money or other assets be placed in a blocked account. As guardian of the estate, you must follow the direction of the court and the procedures required to deposit funds in this type of account. The use of a blocked account is a safeguard and may save the estate the cost of a bond.

15 Other restrictions

Other restrictions on your authority to deal with estate assets exist. Without a prior court order, you may not pay fees to yourself or your attorney. You may not make a gift of estate assets to anyone. You may not borrow money from the estate. You may not use estate funds to purchase real property without prior court order.

If you spend estate funds without court permission, the court may compel you to reimburse the estate from your own funds and remove you as guardian. You should consult with an attorney concerning the legal requirements relating to sales, leases, mortgages, and investment of estate property.

If the child whose estate you are managing has a living parent, or if that child receives assets or is entitled to support from another source, you must obtain court approval before using *guardianship* assets for the child's support, maintenance, or education. You must file a petition or request approval in the original petition and set forth exceptional circumstances that justify any use of guardianship assets for the child's support. The court ordinarily will grant such a petition for only a limited period of time, usually not more than one year, and only for specific and limited purposes.

16 Inventory and appraisal of estate property

You must locate, take possession of, and protect the child's income and property that will be part of the estate. You must change the ownership of all assets into the guardianship estate's name. For real estate, you should record a copy of your *Letters of Guardianship* with the county recorder in each county where the child owns real property.

Next, you must arrange to have a designated probate referee determine the value of the estate property unless this requirement is waived by the court. You, not the referee, must determine the value of certain "cash items." An attorney can advise you on this.

After you have gathered all the child's money and property and determined how much it is worth, you must complete and file an "Inventory and Appraisal" with the court within 90 days of appointment using forms GC-040 and GC-041. The court may order you to return 90 days after your appointment to ensure that you properly file the inventory and appraisal.

GC-206-INFO Information on Probate Guardianship of the Estate

17 Insurance

You should make sure that the property of the estate and any risks to it are protected by appropriate and sufficient insurance. You should maintain the insurance coverage throughout the entire period of the guardianship or until the insured property is sold.

18 Records and Accounts

You must keep complete, accurate records of each financial transaction affecting the estate. The checkbook for the guardianship checking account is your indispensable tool for keeping records of income and expenditures. You should also keep receipts for all purchases.

Record keeping is critical because you will have to prepare periodic accountings of all money and property you have received, what you have spent, the date of each transaction, and its purpose. You will also have to be able to describe in detail the money and property remaining after you have paid the estate's expenses.

Beginning one year after initial appointment as guardian of the estate and then at least every two years after that, you must file an accounting for the previous period with a petition asking the court to review and approve the accounting. The court may ask that you explain or justify some or all expenses charged to the estate. You should have receipts, account statements, and other related documents available for inspection in case the court requests them.

If you do not file your accounting as required, the court will order you to do so. You may be removed as guardian if you don't file an accounting. If you know you are going to need extra time to prepare and file an accounting, be sure to ask the court for an extension ahead of the deadline.

You must comply with all state and local rules when filing your accounting. The Probate Code requires that all accounts be submitted on Judicial Council forms. There is a set of forms for standard accounts; the numbers of all these forms start with GC-400. There is also a set of forms for simplified accounts; the numbers of these forms start with GC-405.

California Rules of Court, rule 7.575 explains the accounting process and the forms. You should also check local rules for any special local requirements.

An attorney can advise you and help you prepare the inventory, accountings, and petitions. If you have any questions, you should consult with an attorney.

FURTHER COURT PROCEEDINGS

19 Court oversight

The guardian is subject to the regulation and control of the court in performing their duties. In addition to reviewing periodic accountings, the court may order you to enter into specific transactions or prohibit transactions for the benefit of the child. The guardian, the child, or any interested person can ask the court for such an order. After a noticed hearing, the court will make orders in the best interest of the child.

20 Removal and replacement of guardian

After a noticed hearing on a petition filed by the child, a relative or friend of the child, or any other interested person, the probate court may remove a guardian for specific reasons or when it is in the child's best interest. The court may also suspend the powers of the guardian until it can hold a hearing on the petition for removal. A guardian may also file a petition to resign, and the court must allow the resignation if it appears proper.

If for any reason there is a vacancy, the court may appoint a *successor* guardian after notice and a hearing as in the case of the original appointment.

21 Termination of guardianship

A guardianship of the estate terminates when the child reaches age 18 or if the child dies before age 18, subject to the duty to keep and preserve the estate until it is delivered to the child's personal representative and to settle the estate's accounts. The court may also terminate the guardianship if it decides that is in the child's best interest. At termination, the guardian must distribute the estate property and file a final account and petition for discharge with the court.

There are several types of legally recognized nonparent caregivers for children. This form compares different types of nonparent caregivers in three areas:

- **The Rights and Duties of Different Types of Caregivers (pages 2–6)**
(Non-court-ordered caregivers, foster parents or resource families, and probate and juvenile court guardians)
- **The Services and Supports Available to Different Caregivers (pages 7–11)**
(Foster parents, probate guardians, and juvenile court guardians)
- **How to Become a Guardian and What Happens Afterward (pages 12–13)**
(probate guardians and juvenile court guardians)

Caregivers who provide care for children involved in a court case

- **Foster parents or resource families:** If it is not in a child's best interest to continue living at home, the juvenile court may order the child placed out of the home in the care and custody of the child welfare agency. The agency can place the child in the home of a relative or foster parent, sometimes called a *resource family* because the caregiver receives resource family approval (RFA). (See form JV-350-INFO.) If a child's relative who has not gone through the RFA process wants placement, the agency may place the child with that relative as long as the juvenile court has authorized the placement after finding that it does not pose a risk to the child's health and safety.
- **Guardians:** A guardian is an adult appointed by a court to take custody and care of a child when a child's parents are unavailable or unable to care for the child. Relatives or nonrelatives are appointed as guardians either by the probate court or the juvenile court. In general, probate guardians have the same rights and duties as juvenile court guardians. (See forms JV-350-INFO and GC-205-INFO.)

Caregivers who provide care for children who are not involved in a court case

Guardianship and court-ordered foster care are not the only options if a child's parents are unavailable or unable to care for the child. Families can make arrangements for the care and custody of a child without going to court. These arrangements are usually temporary. For example, parents may be unavailable or unable to care for their children due to illness, a need to go to a residential treatment program, incarceration, or military deployment.

- **Informal caregivers:** An adult caregiver with whom a child is living can sign a Caregiver's Authorization Affidavit (CAA). A CAA gives the caregiver the authority to enroll the child in school and to consent to school-related medical care, such as a school physical. A caregiver who is a relative has the same authority over a child's medical and dental care as a guardian, with limited authority over mental health care. (See www.courts.ca.gov/documents/caregiver.pdf.)
- **Voluntary Placement Agreement (VPA) caregivers (foster parents or resource families):** If parents determine that out-of-home care is needed for a child and that child welfare services and supports could benefit their family, they can enter into a written Voluntary Placement Agreement with the county welfare department. With this agreement, parents are voluntarily allowing the department to place their child in foster care. (See www.cdss.ca.gov/cdssweb/entres/forms/english/soc155.pdf.)

This form only discusses guardians *of the person*, who have legal care, custody, and control of a child. If a child has money or property, the probate court may appoint a guardian *of the estate* to manage and preserve the property for the child until the child reaches 18 years of age. For information on guardians of the estate, see *Information on Probate Guardianship of the Estate* (form GC-206-INFO).

What Are the *Rights and Duties* of Different Types of Caregivers?

Caregivers With No Court Involvement (CAA and VPA)	Foster Parents (Resource Families)	Guardians (Probate and Juvenile Court)
<i>Caregiver's Fundamental Responsibilities and General Duties</i>		
<p>Caregiver's Authorization Affidavit (CAA)</p> <p>The caregiver provides care and supervision for the child on a temporary basis.</p> <p>Payment for the child's needs can be arranged between the child's parents and the caregiver.</p> <p>A relative caregiver is ineligible for foster care payments but may apply for the CalWORKs Non-Needy Caretaker Fund for relatives, which is a non-income-based payment available through the county social services agency. A non-related extended family member (NREFM) caregiver is not eligible to receive CalWORKs or any foster care payments.</p>	<p>Foster parents work with child welfare agency social workers to provide care, supervision, and housing for the child.</p> <p>Foster parents receive foster care funds for the child's needs, such as food and clothing.</p> <p>If the child has special needs, foster parents work with the social worker to make sure the child receives available resources and services.</p>	<p>A guardian appointed by a probate court or by a juvenile court has the same rights to legal and physical custody of the child as a parent. In general, a guardian must care for and control the child the same way a parent would. The court making the guardianship order has authority to order the guardian to do or not to do certain things.</p> <p>A guardian is responsible for providing for food, clothing, shelter, education, and all the medical and dental needs of the child.</p> <p>A guardian must provide for the safety, protection, and physical and emotional growth of the child. Like a parent, a guardian should maintain close contact with the child's school and physician.</p> <p>If the child has special needs, a guardian must strive to meet those needs or secure appropriate services. Some children may have physical or learning disabilities. Other children come from abusive homes or have been victims of abuse. Counseling and other services may be necessary to assist a child who has special needs or has had unpleasant life experiences.</p>
<i>Custody and Visitation</i>		
<p>CAA</p> <p>Legal and physical custody of the child remains with the parents. The parents can remove the child from the caregiver at any time, even if the caregiver does not agree.</p>	<p>Physical custody of the child—that is, the right to decide where the child lives—is with the child welfare agency.</p>	<p>The guardian has legal and physical custody of the child.</p> <p>The child's parents can no longer make decisions for the child while there is a guardianship. The parents' rights are completely suspended—but not</p>

Caregivers With No Court Involvement (CAA and VPA)	Foster Parents (Resource Families)	Guardians (Probate and Juvenile Court)
<i>Custody and Visitation (continued)</i>		
<p>The caregiver or the parents can decide who the child can visit.</p> <p>VPA</p> <p>The parents retain their legal rights but allow the child welfare agency to have custody and control of the child. The child will be placed with a caregiver in foster care, but the caregiver does not have legal custody of the child. Parents can terminate a VPA at any time.</p> <p>Foster parents must follow the social worker's instructions regarding the child's visits with parents and others.</p>	<p>Foster parents must make sure the child participates in social worker-authorized and court-ordered visits with parents and others.</p>	<p>terminated—as long as the guardianship remains in effect.</p> <p>Unless there is a court order requiring the child to spend time with the parents or other persons, the guardian can decide who and when the child can visit, including the parents.</p>
<i>Residence</i>		
<p>CAA and VPA</p> <p>The child lives with the caregiver.</p>	<p>Social workers and the court decide who the child will live with.</p>	<p>A guardian decides where the child lives. The child normally will live with the guardian, but the guardian can make other arrangements if they are in the best interest of the child.</p> <p>A guardian must give proper notice to the court and others of any address change of either the child or the guardian.</p> <p>A guardian must get court permission before changing the child's residence to a place outside California.</p>
<i>Health Care</i>		
<p>CAA</p> <p>A CAA authorizes the caregiver to enroll the child in school and to consent to school-related medical care, such as a school physical.</p> <p>A CAA authorizes a relative caregiver to consent to a child's medical and dental care and limited authority over a child's mental health care.</p>	<p>The social worker arranges health care for the child's medical, dental, and mental health needs, but foster parents might be responsible scheduling and transporting the child to these appointments.</p> <p>Parents retain their rights to make health-care decisions for the child unless the court orders otherwise.</p>	<p>The guardian is responsible for meeting the child's medical needs. In most cases, the guardian has the authority to consent to the child's medical treatment.</p> <p>However, if the child is 14 years or older, surgery may not be performed on the child unless either (1) both the child and the guardian consent or (2) a court order is obtained that specifically authorizes the surgery. This holds true except in emergencies.</p>

Caregivers With No Court Involvement (CAA and VPA)	Foster Parents (Resource Families)	Guardians (Probate and Juvenile Court)
Health Care (continued)		
<p>Parents retain their rights to make health-care decisions for the child. A caregiver's decision about a child's medical or dental care must be reversed if a parent disagrees as long as the parent's decision does not put the life, health, or safety of the child at risk.</p> <p>If the child stops living with the caregiver, the caregiver must notify any school or health-care provider that received the affidavit, and the affidavit becomes invalid after the school or health care provider is notified.</p> <p>Some health-care providers may not accept a CAA.</p> <p>VPA Because the child will be placed in foster care, the child welfare agency will arrange for medical and dental care, but the caregiver might be responsible for scheduling and taking the child to appointments.</p>		<p>A guardian may not place a child involuntarily in a mental health treatment facility. A separate legal process is required for such an involuntary commitment. However, the guardian may secure counseling and other necessary mental health services for the child.</p> <p>The law allows older and more mature children to consent to their own treatment in certain situations, such as outpatient mental health treatment, medical care related to pregnancy or sexually transmitted diseases, and drug and alcohol treatment.</p>
Education		
<p>CAA A CAA can give a caregiver the ability to enroll a child in school. However, some schools may not recognize a CAA. The caregiver does not hold the child's education rights and cannot attend Individualized Education Program (IEP) meetings for the child unless invited by the person holding educational rights. If the child has special needs, the caregiver should make sure the child receives available resources and services.</p> <p>VPA Foster parents are responsible for making sure that the child attends school. They work with the social worker to decide</p>	<p>Foster parents are responsible for making sure that the child attends school. They work with the social worker to decide which school the child should attend and what special education services the child needs, if any. Except in limited circumstances, foster parents do not hold the child's education rights and cannot attend Individualized Education Program (IEP) meetings for the child unless invited by the person holding educational rights.</p>	<p>A guardian is responsible for the child's education and holds the child's educational rights unless the court appoints someone else to hold them.</p>

Caregivers With No Court Involvement (CCA and VPA)	Foster Parents (Resource Families)	Guardians (Probate and Juvenile Court)
<i>Education (continued)</i>		
<p>which school the child should attend and what special education services the child needs, if any. Foster parents do not hold the child's education rights and cannot attend Individualized Education Program (IEP) meetings for the child unless invited by the person holding educational rights.</p> <p>Parents retain their rights to make educational decisions for the child unless those rights are limited through another process.</p> <p>If the child has special needs, the caregiver works with the social worker to make sure the child receives available resources and services.</p>	<p>If the child has special needs, the foster parent works with the social worker to make sure the child receives available resources and services.</p> <p>Parents retain their rights to make educational decisions for the child unless a court limits these educational rights and assigns them to another person.</p>	
<i>Consent to Changes in Child's Status</i>		
CAA Caregivers cannot consent to a child's marriage, military service, or driver's license. VPA Foster parents cannot consent to the child's marriage, military service, or driver's license.	Foster parents cannot consent to the child's marriage, military service, or driver's license.	A guardian <i>and the court</i> must give permission for a minor child to marry. A guardian may consent to a minor child's enlistment in the armed services and to application for a driver's license. A guardian may apply for a passport for a minor child.
<i>Financial Obligations</i>		
CAA The caregiver can work with the parents to arrange for payment for the child's needs. A relative caregiver is ineligible for foster care payments but may apply for the CalWORKs Non-Needy Caretaker Fund for relatives, which is a non-income-based payment available through the county social services agency.	Foster parents receive foster care funds to pay for the child's needs.	The guardian is responsible for the day-to-day financial support of the child even though the parents are still obligated to support the child financially. The guardian may take legal action or contact the local child support agency to obtain child support from a parent. The child may also be eligible for Temporary Aid for Needy Families (TANF; formerly known as AFDC) Social Security benefits, Veterans Administration benefits, Indian child welfare benefits, and other public or private funds.

Caregivers With No Court Involvement (CAA and VPA)	Foster Parents (Resource Families)	Guardians (Probate and Juvenile Court)
Financial Obligations (continued)		
A non-related extended family member (NREFM) caregiver is not eligible to receive CalWORKs or any foster care payments. VPA Foster parents receive foster care funds to pay for the child's needs.		
Legal Liability		
CAA and VPA Civil Code section 1714.1(a): “Any act of willful misconduct of a minor that results in injury or death to another person or in any injury to the property of another shall be imputed to the <i>parent or guardian having custody and control of the minor</i> for all purposes of civil damages, and the parent or guardian having custody and control shall be jointly and severally liable with the minor for any damages resulting from the willful misconduct.” (Italics added)	Except in limited circumstances, a foster parent is immune from liability in a civil action to recover damages for injury, death, or loss to person or property caused by an act or omission of a child or nonminor dependent while the child or nonminor dependent is placed in the home of the caregiver. (See Welfare and Institutions Code section 362.06(b)(2).)	A guardian, like a parent, is liable for the harm and damages caused by the willful misconduct of a child. There are special rules concerning harm caused by the use of a firearm. Civil Code section 1714.1(a): “Any act of willful misconduct of a minor that results in injury or death to another person or in any injury to the property of another shall be imputed to the <i>parent or guardian having custody and control of the minor</i> for all purposes of civil damages, and the parent or guardian having custody and control shall be jointly and severally liable with the minor for any damages resulting from the willful misconduct.” (Italics added)
If you are concerned about your liability for a child's conduct, you should contact an attorney.		
Other Duties		
CAA These can be arranged between the caregiver and the child's parents. VPA Foster parents may be invited to participate in a child's services such as counseling, Child and Family Team (CFT) meetings, or other types of treatment appointments.	Foster parents may be invited to participate in or to support a child's services such as counseling, Child and Family Team (CFT) meetings, or other types of treatment appointments.	The court may require the guardian to accept other duties, such as completing a parenting class. The guardian must follow all court orders and cooperate with court investigators. Court visitors and status reports: Some counties have programs in which “court visitors” track and review guardianships. If your county has such a program, you will be expected to cooperate with all requests of the court visitor. Also, a guardian may be required to fill out and file status reports.

What Services and Supports Are Available to Different Caregivers?

The payments discussed below are updated annually based on the cost of living. Payments are made retroactively. For example, a child placed with a caregiver in January would receive funds for the month of January in February. The payment amounts in effect from July 1, 2021, to June 30, 2022, are given below. For updated amounts, see www.cdss.ca.gov/inforesources/letters-regulations/letters-and-notices/all-county-letters.

Juvenile Court Non-Guardian Caregiver (Foster Parent or Resource Family)	Probate Guardian	Juvenile Court Guardian
Cash Payments—Relatives		
<p>Before the caregiver receives resource family approval (RFA), Emergency Caregiver (EC) funding is available at the basic foster care rate starting from the date the child is placed with the caregiver. EC funding is tied to the foster care basic rate, which is \$1,059 per month.</p> <p>After RFA, the caregiver will receive foster care payments. For relative caregivers, the only available foster care funding is federal Aid for Families with Dependent Children-Foster Care (AFDC-FC). The foster care basic rate is \$1,059 per month.</p> <p>Approved Relative Caregiver (ARC) funds are available for children in foster care who are not eligible for AFDC-FC benefits. The foster care basic rate is \$1,059 per month.</p>	<p>Child-Only California Work Opportunity and Responsibility to Kids Program (CalWORKs) is available for relatives. Payments are approximately one-half of the foster care basic rate paid to nonrelatives. This type of assistance can begin before guardianship is ordered if the child is placed with the relative. Payments can drop below one-half of the foster care basic rate if there are multiple children in the home. CalWORKs payments depend on variables such as region and exempt/nonexempt status and are harder to calculate. Social workers who specialize in benefits would be the best people to ask about Maximum Aid Payments (MAP) levels for cash aid. For example, as of October 1, 2021, payment for one child ranged from \$548 to \$606 per month.</p> <p>Payments end when the child turns 18 years old, but it is possible to extend payments to age 19 if the child is completing high school. California foster youth who are placed with a caregiver out of state are eligible for funds at the foster care rate in that state.</p>	<p>Kinship Guardianship Assistance Payment Program (Kin-GAP) is available to children who have lived with an approved relative guardian for at least six months after the caregiver obtains resource family approval. Kin-GAP families sign a written agreement with the county. The Kin-GAP payments begin once the written agreement is signed and the juvenile court dismisses the child's case.</p> <p>Payments can't exceed what the child was receiving in foster care, but they can include the foster care basic rate and any special needs supplements the child was receiving in foster care.</p> <p>Kin-GAP payments generally end when a child turns 18, but can continue until age 19 if the child is completing high school or until age 21 if the Kin-GAP payments started after the child turned 16 or if the child has a disability that requires continued support.</p> <p>If the court keeps the juvenile case open after appointing a relative guardian, the guardian can receive Approved Relative Caregiver (ARC) or foster care payments instead of Kin-GAP.</p> <p>In very rare situations, you may not qualify for Kin-GAP, foster care, or ARC payments, but you may still qualify for California Work Opportunity and Responsibility to Kids Program (CalWORKs).</p>

Juvenile Court Non-Guardian Caregiver <i>(Foster Parent or Resource Family)</i>	Probate Guardian	Juvenile Court Guardian
Cash Payments—Nonrelatives		
<p>Before Resource Family Approval (RFA), Emergency Caregiver (EC) funding is available at the basic foster care rate starting from the date the child is placed with the caregiver. EC funding is tied to the foster care basic rate, which is \$1,059 per month.</p> <p>After RFA, the caregiver will receive foster care payments. Nonrelative caregivers receive Aid to Families with Dependent Children-Foster Care (AFDC-FC) funds. There are federal and state AFDC-FC funding programs. The foster care basic rate is \$1,059 per month.</p>	<p>There is no financial aid before the probate court orders the child placed with the guardian.</p> <p>Nonrelative guardians are eligible for AFDC-FC funding equivalent to the foster care basic rate once the court orders temporary guardianship. The foster care basic rate is \$1,059 per month.</p> <p>Payments end when the child turns 18 years old, but it is possible to extend payments to age 19 if the child is completing high school.</p>	<p>State Aid to Families with Dependent Children-Foster Care (AFDC-FC) is available to children who live with a nonrelative legal guardian. This rate may change depending on where you live, so before you move, ask if there will be a rate change. The foster care basic rate is \$1,059 per month.</p> <p>Youth who turn 18 in a nonrelative legal guardianship can receive extended financial assistance until they turn 21 if they meet certain participation criteria related to work, school, or activities designed to remove barriers to employment.</p>
Medical Insurance		
<p>Financial assistance is linked to full-scope Medi-Cal services for the child. Youth are eligible for Former Foster Youth Medi-Cal up to age 26.</p>	<p>If a probate guardian receives CalWORKs (relative) or AFDC-FC (nonrelative), the child is eligible for Medi-Cal, but after turning 18 is not eligible for Former Foster Youth Medi-Cal.</p>	<p>Financial assistance is linked to full-scope Medi-Cal services for the child. Youth are eligible for Former Foster Youth Medi-Cal up to age 26.</p>
Extended Foster Care		
<p>Extended Foster Care is available for youth who are in foster care placement when they turn 18. Nonminor dependents (NMDs) can receive ongoing case management and financial assistance until they turn 21; they are eligible for transitional housing and independent living placements.</p>	<p>Youth who turn 18 in a probate court guardianship are not eligible for Extended Foster Care, Independent Living Program services, or Chafee Education and Training Vouchers. However, if a probate guardian receives CalWORKs (relative) or AFDC-FC (nonrelative), the child will receive those funds</p>	<p>Extended Foster Care is available for youth who are in foster care placement when they turn 18. Nonminor dependents can receive ongoing case management and financial assistance until they turn 21; they are eligible for transitional housing and independent living placements.</p>

Juvenile Court Non-Guardian Caregiver <i>(Foster Parent or Resource Family)</i>	Probate Guardian	Juvenile Court Guardian
<i>Extended Foster Care (continued)</i>		
<p>Payments will vary according to placement. Payments range from the foster care basic rate of \$1,059 per month to \$5,830 per month for a parenting youth living in transitional housing in a high-cost county.</p> <p>Independent Living Program funding is available for current and former foster youth up to age 21, including youth who were in foster care on or after age 16, youth who entered into a Kin-GAP guardianship after age 16, and youth who entered into a non-related legal guardianship through juvenile court after age 8. Youth can learn household and money management and receive educational, housing, and employment assistance.</p> <p>Chafee Education and Training Vouchers are available for youth who were in foster care on or after age 16. These are grants for postsecondary education. Vouchers are up to \$5,000 per year.</p>	<p>until the age of 18 and funds may be extended to age 19 if the youth is completing high school.</p>	<p>Payments will vary according to placement. Payments range from the foster care basic rate of \$1,059 per month to \$5,830 per month for a parenting youth living in transitional housing in a high-cost county.</p> <p>Independent Living Program funding is available for current and former foster youth up to age 21, including youth who were in foster care on or after age 16, youth who entered into a Kin-GAP guardianship after age 16, and youth who entered into a non-related legal guardianship through juvenile court after age 8. Youth can learn household and money management and receive educational, housing, and employment assistance.</p> <p>Chafee Education and Training Vouchers are available for youth who were in foster care on or after age 16. These are grants for postsecondary education. Vouchers are up to \$5,000 per year.</p>
<i>Childcare Assistance</i>		
<p>The Emergency Child Care Bridge program provides childcare vouchers and navigation support to caregivers of children in foster care as well as to foster youth who are themselves parents. Eligibility depends on available funding and county policy.</p>	<p>No subsidized childcare assistance is available to probate guardians.</p>	<p>The Emergency Child Care Bridge program benefits are not available after a guardianship is established. No subsidized childcare assistance is available.</p>

Juvenile Court Non-Guardian Caregiver <i>(Foster Parent or Resource Family)</i>	Probate Guardian	Juvenile Court Guardian
Special Needs Supplements		
<p>Special needs supplements may be available for children in foster care. These include:</p> <p>Level of Care based on the physical, behavioral, emotional, educational, health, and permanency care provided to a child. Payments range from \$1,059 to \$1,416 per month.</p> <p>Intensive Services Foster Care for children with intensive medical, behavioral, developmental, or emotional needs. The payment is \$2,763 per month.</p> <p>Specialized Care Increments for children with special medical, behavioral, developmental, or emotional needs. These payments are determined by the county. You can find information at www.cdss.ca.gov/inforesources/foster-care/specialized-care or speak to a social worker.</p> <p>Dual Agency Rate for children who are in foster care and also eligible for services through the Regional Center. These rates are \$1,241 per month for a child up to 3 years old and \$2,771 per month for a child over 3.</p> <p>Whole Family Foster Home and Infant Supplement payments are available to support youth living in foster care with their nondependent children. This rate is \$900 per month.</p> <p>An Expectant Parent Payment is available to a youth in foster care during the third trimester of pregnancy. This payment is \$2,700 for the last three months of pregnancy.</p>	<p>There are no special needs supplements available for children in probate guardianships.</p>	<p>Special needs supplements may be available. These include:</p> <p>Level of Care based on the physical, behavioral, emotional, educational, health, and permanency care provided to a child. Payments range from \$1,059 to \$1,416 per month.</p> <p>Intensive Services Foster Care for children with intensive medical, behavioral, developmental, or emotional needs. The payment is \$2,763 per month.</p> <p>Specialized Care Increments for children with special medical, behavioral, developmental, or emotional needs. These payments are determined by the county. You can find information at www.cdss.ca.gov/inforesources/foster-care/specialized-care or speak to a social worker.</p> <p>Dual Agency Rate for children who are in foster care and also eligible for services through the Regional Center. These rates are \$1,241 per month for a child up to 3 years old and \$2,771 per month for a child over 3.</p> <p>Whole Family Foster Home and Infant Supplement payments are available to support youth living in foster care with their nondependent children.</p> <p>An Expectant Parent Payment is available to a youth in foster care during the third trimester of pregnancy. This payment is \$2,700 for the last three months of pregnancy.</p> <p>A Clothing Allowance is available for foster children in some counties. Payment varies by county.</p>

Juvenile Court Non-Guardian Caregiver <i>(Foster Parent or Resource Family)</i>	Probate Guardian	Juvenile Court Guardian
<i>Special Needs Supplements (continued)</i>		
<p>A Clothing Allowance is available for foster children in some counties. Payment varies by county.</p> <p>Education Travel Reimbursement is available to caregivers who transport a child to the child's school of origin (the school the child was attending before being placed in the resource family home). This rate is set by the state based on two round trips per day from the foster home to the school.</p>		<p>Education Travel Reimbursement is available to caregivers who transport a child to the child's school of origin (the school the child was attending before being placed in the resource family home). This rate is set by the state based on two round trips per day from the foster home to the school.</p>

How Do I Become a Child's Guardian? And What Happens After That?

Stage	Probate Guardian	Juvenile Court Guardian
First Steps	<p>A person who wants to be appointed guardian of a child must file a petition with the probate court. The child's parent or the child, if at least 12 years old, can also file the petition. (See form GC-205-INFO, <i>Information on Probate Guardianship of the Person</i>.)</p> <p>Before the court decides to appoint a guardian, an investigation is usually required. If the proposed guardian is a relative, a court investigator conducts the investigation. If the proposed guardian is not a relative, a county social worker conducts the investigation. The investigator prepares a report, submits it to the court and the parties, and makes a recommendation to the court whether the petition should be granted.</p>	<p>A person who wants to be appointed guardian of a child in juvenile court should contact the child's social worker or probation officer and the juvenile court early in the case. In a dependency case, the court can appoint a guardian for the child at the dispositional hearing if the parents and the child agree. In a juvenile justice (delinquency) case, the court can appoint a guardian for the child at any time after the dispositional hearing if the probation officer recommends it or the child's attorney requests it.</p> <p>If the court has ordered the child placed in out-of-home relative or foster care, the court can appoint a guardian if it decides the child cannot be safely returned home and selects a permanent plan for the child. The court decides whether to appoint a guardian and whom to appoint. The person who has been caring for the child will often be appointed.</p> <p>The procedures for appointment of a guardian are the same in dependency and juvenile justice. (For more information, see form JV-350-INFO, <i>Information on Juvenile Court Guardianship</i>.)</p>
Court Oversight	<p>After a guardian is appointed, there are no regular court hearings, although the probate court has the authority to regulate and control the guardian's actions. The court can require the guardian to allow visitation of the child with parents or other persons.</p> <p>The court may require the guardian to submit an annual status report to the court and, depending on the county, the court may hold a hearing. (See form GC-205-INFO, <i>Guardianship of the Person—Information</i>.)</p> <p>On receipt of a request, the court may order the guardian to take action or may approve and confirm actions already taken by the guardian.</p>	<p>The juvenile court keeps jurisdiction over the guardianship. When the court appoints a guardian, it must also issue visitation orders unless it finds that visitation would not be in the child's best interest.</p> <p>In many cases after the guardianship is granted, especially if the guardian is related to the child, the court will dismiss dependency or juvenile justice jurisdiction and will not hold any more regularly scheduled court hearings. Even then, the juvenile court retains authority over the guardianship. In other cases, the court will grant the guardianship, keep dependency or juvenile justice jurisdiction, and continue to hold regular review hearings.</p> <p>Any request to change the court's orders, including visitation orders, or to end the guardianship must be filed in the juvenile court using form JV-180.</p>

STAGE	Probate Guardian	Juvenile Court Guardian
Role of Social Worker or Probation Officer	<p>A county social worker is responsible for screening any proposed guardian and for conducting the guardianship investigation if the proposed guardian is not related to the child.</p> <p>If the probate court thinks a child who is the subject of a guardianship petition may be abused or neglected, it can ask a social worker to investigate and file a petition in the juvenile dependency court before it decides whether to appoint a probate guardian. If the social worker files a dependency petition, then the juvenile court, and not the probate court, has authority over the child's custody and placement. The probate guardianship will be put on hold until the juvenile court case is over.</p> <p>After a guardian is appointed, there is no social worker involvement or oversight. The court may not order family reunification services (services to help parents reunify with the child) as part of a probate guardianship.</p>	<p>If the dependency or juvenile justice case is not dismissed after guardianship is granted, the social worker or probation officer will provide support to the guardian and child and prepare reports for scheduled juvenile court hearings.</p> <p>If the juvenile dependency or delinquency case is dismissed after guardianship is granted, continued social worker or probation officer involvement will depend on any services and financial supports the child continues to receive.</p>
Terminating Guardianship	<p>The court can order the guardianship terminated (ended). The guardian, the parent, the child, or, if the child is an Indian child, an Indian custodian or the child's tribe can file a request with the probate court to terminate the guardianship.</p> <p>The guardianship automatically terminates when the child turns 18 or if the child dies before reaching this age; if the child is emancipated by a court order, by getting married, or by joining the armed forces; or if the child is adopted.</p>	<p>The court can order the guardianship terminated (ended). A social worker or probation officer, the guardian, a parent, or the child can file a request with the juvenile court to terminate the guardianship.</p> <p>The guardianship automatically terminates when the child turns 18 or if the child dies before reaching this age; if the child is emancipated by a court order, by getting married, or by joining the armed forces; or if the child is adopted.</p>
Terminating Parental Rights	<p>A probate guardianship does not terminate parental rights, it suspends them. If a child has been in a guardianship for two or more years, the guardian can file a petition to terminate the parents' rights in order to adopt the child.</p>	<p>A juvenile court guardianship does not terminate parental rights, it suspends them. A social worker or probation officer, the guardian, or the child can file a request with the juvenile court to change the permanent plan to adoption and, if the court agrees, the court will first be required to terminate parental rights before finalizing the adoption.</p>

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER: STATE: ZIP CODE: FAX NO.:	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		DRAFT Not approved by the Judicial Council
CHILD'S NAME:		
APPLICATION TO COMMENCE JUVENILE COURT PROCEEDINGS AND DECISION OF SOCIAL WORKER (Welf. & Inst. Code, § 329)		CASE NUMBER:

To the social worker or the child welfare agency of the county named above:

PART I. CHILD'S INFORMATION

1. a. Child's name:
b. Age:
c. Date of birth:
d. Sex:
e. (1) Parent's name: Mother Father Other parent
(2) Parent's address:
f. (1) Parent's name: Mother Father Other parent
(2) Parent's address:
g. Other caregiver (name, address, and relationship to child):

2. The child described in item 1
a. resides in this county.
b. was in this county at the time of the events alleged below.

PART II. APPLICANT'S AFFIDAVIT

3. My name and address:

4. My relationship to the child named in item 1 (specify):
5. The child named in item 1 is being abused or neglected, or is at risk of abuse or neglect, as described in Welfare and Institutions Code section 300. I am applying for an investigation and commencement of proceedings in juvenile court.
6. Facts in support of application (describe what happened concisely, and include all known and relevant dates, times, names, and addresses; use additional pages as needed, and label them as Attachment 6):

Continued on Attachment 6. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

CHILD'S NAME:	CASE NUMBER:
---------------	--------------

PART III. PROBATE COURT REFERRAL

7. The Superior Court of _____ County, Department _____, sitting as a probate court and assigned to determine a petition for appointment of a guardian of the child named above in case number _____, has determined that the child named above is or may be described by Welfare and Institutions Code section 300. The court refers the child to the county child welfare agency for an investigation to determine whether proceedings in juvenile court should be commenced.
8. The child is or may be described by Welfare and Institutions Code section 300 for the following reasons:

Continued on Attachment 8. Number of pages attached: _____

9. The following documents are attached to this form:

- a. A copy of the *Petition for Appointment of Guardian of Minor* (form GC-210) or *Petition for Appointment of Guardian of the Person* (form GC-210(P)) and all attachments filed in the probate guardianship proceeding identified above.
- b. A copy of the investigator's report filed in the guardianship proceeding.
- c. Other documents containing material information (*name or brief description of each document or material*):
 (1) (Name or description):
 (2) (Name or description):

Date: _____ JUDICIAL OFFICER

DECISION OF SOCIAL WORKER OR CHILD WELFARE AGENCY

10. Social worker information:

- a. Name:
- b. Agency:
- c. Address:
- d. Telephone number:
- e. Email address:

11. After conducting the investigation required in response to the affidavit on page 1 or the referral above, I have decided:

- a. to commence dependency proceedings by filing a petition in juvenile court.
- b. not to commence dependency proceedings in juvenile court because (*specify reasons, as well as any recommendation made to the applicant*):

Continued on Attachment 11b. Number of pages attached: _____

12. The report of the findings and conclusions of my investigation is appended as Attachment 12.

I declare under penalty of perjury under the laws of the State of California that I am a social worker of the county in which this application was submitted, I am authorized to determine whether to commence proceedings in the juvenile court, and the foregoing is true and correct.

Date: _____



(TYPE OR PRINT NAME)

(SIGNATURE OF SOCIAL WORKER)

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER: STATE: ZIP CODE: FAX NO.:	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		DRAFT Not approved by the Judicial Council
CHILD'S NAME:		
PROBATE COURT REQUEST FOR JUVENILE COURT REVIEW OF DECISION NOT TO COMMENCE PROCEEDINGS		GUARDIANSHIP CASE NUMBER:

PROBATE COURT

1. On (date): _____, the Superior Court of _____ County, Department _____, sitting as a probate court and assigned to determine a petition for appointment of a guardian of the child named above in case number _____, referred the child named above to the county child welfare agency for an investigation to determine whether to commence juvenile court proceedings.
2. As of this date, no less than 3 weeks after the date of referral and no more than 1 month after that date (*check all that apply*):
 - a. The court has not received the agency's report or its decision whether to commence juvenile court proceedings.
 - b. The court has received the agency's report, but the agency has declined to commence juvenile court proceedings.
 - c. The agency has not submitted a report, but has notified the court that it will not commence juvenile court proceedings.
3. This court requests that the juvenile court review the child welfare agency's failure, as of the date below, to commence proceedings in juvenile court and order the agency to file a petition on behalf of the child.
4. The following documents or materials are attached to this request:
 - a. The probate court's referral to the child welfare agency.
 - b. The agency's report submitted in response to the probate court's referral (*if available*).
 - c. Other (*names and descriptions of additional supporting documents or materials*): _____

Total number of pages in documents attached under 4a, b, and c: _____

Date: _____ JUDICIAL OFFICER

JUVENILE COURT

The court has reviewed and considered the probate court's request and all materials submitted with it.

THE COURT FINDS AND ORDERS

1. a. The child is not, *prima facie*, described by Welfare and Institutions Code section 300, and the decision of the social worker not to commence proceedings is affirmed.
 b. The child is, *prima facie*, described by Welfare and Institutions Code section 300, and the social worker is ordered to commence proceedings by filing a petition under Welfare and Institutions Code section 332 in this court on or before (date): _____.
2. The matter is set for argument on (date): _____, at (time): _____, in Department (number): _____.
 The findings and orders in item 1 are deferred to the conclusion of argument.
3. After item 1 is completed, the clerk is directed to return this form to the probate court for filing in the guardianship case file.

Date: _____ JUDICIAL OFFICER

JV-350-INFO Information on Juvenile Court Guardianship

This form is about legal guardianship ordered by the juvenile court as the permanent plan for a child under the court's jurisdiction who cannot return home safely or be adopted.

The form explains:

- What is a guardianship and who can become a guardian;
- How and when to ask to become a guardian in juvenile court;
- Important differences between a resource family or foster parent; a court-appointed guardian; and an adoptive parent; and
- A guardian's legal rights, duties, and eligibility for financial help.

To become the guardian of a child who does **not** have a juvenile court case, you need to ask the *probate* court. Read Judicial Council forms GC-205-INFO and GC-206-INFO to learn more about probate guardianships. Read form GC-207-INFO/JV-352-INFO to compare guardianships with other childcare arrangements.

For more information, visit the California Courts website at www.courts.ca.gov/1206.htm or talk to a lawyer with experience in juvenile court. Learn how to find a lawyer on the website at www.courts.ca.gov/selfhelp-findlawyer.htm

1 What is a guardianship?

A guardianship—technically a *guardianship of the person*—is a court-ordered relationship in which a person, other than the child's parent, is given legal and physical custody of a child and can make the decisions that a parent can about the child's care and control, residence, education, and medical treatment. When a guardianship is established, the parents' rights to have the child live with them and to make decisions for the child are completely suspended and given to the guardian.

- The right to give the court information about the child's needs.

5 How is a guardian different from a foster parent?

Foster parents and guardians are both responsible for taking care of other people's children. But there are important differences.

- **Permanence.** Foster care is intended to be temporary; it can end at any time. A guardianship gives a child a stable, lasting home and relationship.
- **Court supervision.** The court holds review hearings every six months for a child in foster care. A social worker or probation officer visits a foster placement regularly. In a guardianship, no regular hearings or visits are required unless the court keeps the juvenile case open.
- **Duties.** A foster parent provides food, clothing, housing, and emotional support to the child under the supervision of a social worker or probation officer. A guardian has more rights and duties toward the child, but may receive fewer services and less personal support.

6 Who else can be involved in the child's court case?

The child's relatives. If you are a relative, even if not the child's foster parent or caregiver, you can still give the court important information in writing.

2 Who can become a guardian in juvenile court?

To become a child's court-appointed guardian, you must:

- Be an adult (18 years old or older);
- Not be the child's parent; and
- Be approved by the county child welfare agency or juvenile probation department.

3 Can a relative be appointed guardian?

Yes. The juvenile court can appoint any approved adult, including any relative except the child's parent. A nonrelative may need to meet stricter approval requirements than a relative.

4 Is a foster parent the same as a guardian?

No. A foster parent is *not* a guardian, but the court can and often will appoint a foster parent as a guardian. Foster parents have some legal rights, including:

- The right to receive notice of the child's court hearings and go to the hearings; and

7 Will the child be returned to the parent?

In most cases, the social worker or probation officer works with the family by giving them services so that the child can return to live at home.

Sometimes the court decides the child will not be able to return home safely. If that happens, the court will deny or stop services for the parent. The social worker or probation officer will recommend to the court a permanent plan for the child in a written report.

8 Is guardianship a permanent plan?

Yes. A guardianship is one of three authorized permanent plans. It is intended to last until the child turns 18 years of age. If the child cannot return home, adoption is the preferred permanent plan because it is more stable and secure. (Later, this form talks more about adoption.) But if adoption is not a legally available option, the court will try to appoint a guardian for the child.

HOW CAN I BECOME THE CHILD'S GUARDIAN?**9 How do I ask to become the guardian?**

If you want the court to appoint you the child's guardian, you should:

- Tell the social worker or probation officer right away; and
- Ask the judge at a hearing as soon as you can.

Think carefully! If the court appoints you, the guardianship will last until the child turns 18. The court will not "undo" or end a guardianship unless:

- The situation has changed since appointment; and
- It is in the child's best interests to end it.

10 What are the steps to becoming a guardian?

There are several steps to becoming a child's guardian in juvenile court:

- a. The social worker or probation officer will interview you and visit your home to make sure you, your home, and everyone living there are safe for the child.
- b. The social worker or probation officer will write a report to the court to recommend a permanent plan for the child.

Note: If you are not recommended as guardian, ask the social worker or probation officer if they will name you as a prospective successor guardian. Then you might be assessed and appointed if the first appointed guardian can no longer serve.

- c. There will be a court hearing to decide the child's permanent plan. You will get a notice that tells you when and where the hearing will happen.
- d. Go to the hearing and talk to the judge. The child's parents and other people interested in the case can also go to the hearing and tell the judge what they think about you being the child's guardian.

11 How will the court decide whether to appoint me as guardian?

The court will consider:

- Whether the child can be adopted;
- The recommendation in the agency's report;
- What you and other people say at the hearing; and
- Any other reasons for or against appointing you as guardian.

The court will appoint you as guardian if it decides that:

- A guardianship is best for the child; *and*
- You are the best person to be the child's guardian.

12 What if the court appoints me as guardian?

If the court appoints you as guardian, take the order to the clerk. After you affirm that you will perform the duties of a guardian according to law, the clerk will issue *Letters of Guardianship* (form JV-330) as proof that you are the child's legal guardian. Buy a certified copy of the form from the clerk, make copies of that, and keep the certified copy in a safe place.

Take a copy of the *Letters* with you whenever you:

- Take the child to a doctor, dentist, or therapist;
- Sign the child up for school or go to school meetings; or
- Travel with the child.

(13) Will the court oversee me as guardian?

When it appoints you, the court can give you other orders, such as to notify the court if you move or to allow the parents or siblings to visit and spend time with the child. You must obey the court's orders.

After it appoints you, the juvenile court will oversee the guardianship to make sure you perform your duties. You won't usually have to go to court unless the court keeps the juvenile case open or someone asks the court to change its orders or make new orders.

Note: Even after the juvenile case is closed, anyone, *including you*, can use *Request to Change Court Order* (form JV-180) to ask the juvenile court to give you directions, review your plans or actions as guardian, change its previous orders, or end the guardianship.

The social worker or probation officer might also offer permanent placement services to the child. If you're not related to the child, a social worker will visit you every six months and update a voluntary case plan. If you don't do what the case plan says, they might ask the court to order you to do it.

(14) When will the guardianship end?

A guardianship lasts until the child turns 18 unless:

- The child dies before then;
- The child is adopted (by you or another adult); or
- The child is emancipated (or freed from your control) by getting married, entering active military duty, or getting a court order.

The court can order a guardianship to end before the child turns 18, but only if the proposed alternative is in the child's best interests; that is, it would be *better for the child* than continuing the guardianship.

Note: If the child keeps living with you after turning 18, you can get financial help if the child is eligible for Kin-GAP or Extended Foster Care and you meet other conditions. See page 5 for more information about financial support generally.

(15) Can the court replace me as guardian?

Yes. The court will consider replacing you as guardian if asked by:

- You, the guardian;
- Any other interested adult; or

- The child, if 14 years old or older.

The judge will replace you only if the situation has changed and it is in the child's best interests.

(16) How is guardianship different from adoption?

Both a guardian and an adoptive parent have legal and physical custody of the child in place of the birth parents. But there are many differences.

Permanence. In a guardianship, the parent's rights are only *suspended*. The court can end a guardianship and give the parents back their rights if that would be in the child's best interests. In an adoption, parental rights are *permanently ended*. The adoptive parent is the child's legal parent. The birth parents cannot get their rights back.

Visitation. In a guardianship, the court can make an order allowing the parents or other relatives to visit a child. The guardian must obey the visitation order, as well as all other court orders. In an adoption, parents and other relatives lose their rights to visit the child unless the court and the adoptive parents agree that they can have contact after the adoption.

Duration. A guardianship lasts until the child turns 18 unless something happens to end the guardianship before then. (A court can order a guardianship to end if that is in the child's best interests.) An adoption is intended to last forever. A court can end an adoption only by terminating parental rights in a new juvenile or family law case.

Court oversight. The court controls a guardianship and can make orders, including to replace the guardian or end the guardianship, if someone asks and the request is in the child's best interests. The court does not oversee an adoption once it is final.

Inheritance. A child in a guardianship can inherit property from a parent if the parent dies without a will. If the court knows the child might inherit property, it may appoint a "guardian of the estate" to manage the property. An adopted child usually has no right to inherit from a birth parent, but may receive a gift from a birth parent's will or trust.

WHAT ARE A GUARDIAN'S RIGHTS AND DUTIES?

Subject to the court's orders, a court-appointed guardian has the same rights to legal and physical custody of the child as a parent does. In general, you must care for and control the child the same way a parent would.

Specifically, that means:

(17) Arrange a place for the child to live

If you move the child to a new address in California, you must notify the court in writing. To move the child out of California, you must get court approval first. Use form JV-180 to ask the court to approve. Other states have different guardianship laws. If you plan to move to another state, find out about your legal rights and duties in that state.

(18) Arrange for the child's health care

You can consent to (allow) most medical or dental treatment for the child. But if the child is at least 14 years old and does not want to have a non-emergency surgery, you must first get permission from the court.

The law also allows older and more mature children to get some medical treatment on their own without your approval, including:

- Outpatient mental health treatment;
- Reproductive health care; and
- Drug and alcohol treatment.

(19) Provide for the child's education

You can choose the child's school and learning programs just as a parent can. In special situations, the court may also be involved in these decisions. Pay attention to how the child does in school, and meet with the child's teachers. If the child needs special education or other specialized services, you can also ask the school or other providers for these services.

(20) Access social services

You can get help for the child from other programs, such as:

- Head Start;
- Regional centers for persons with developmental delays or disabilities;
- Health care services; and
- After-school care.

(21) Give consent to the child's marriage

You can allow the child to marry, but you must get the court's permission first. Once the child gets married, the guardianship will end.

(22) Give consent to the child's military service

You can allow the child to enlist in the U.S. military. Once the child enters active duty, the guardianship will end.

(23) Give consent for the child's driver's license

The child cannot get a driver's license without your written permission. (See also the duties described below.)

(24) Pay for harm caused by child's driving

You will have to pay for any damage the child causes when driving. The law limits how much money you can be forced to pay. If you're concerned about this duty, you should talk to a lawyer.

You must get insurance to cover the child when driving. (The child cannot get a license without your written permission.) If you change your mind later, you can sign a form at the DMV to cancel the child's driver's license.

(25) Pay for harm caused by child's other acts

Willful misconduct. In most cases, a guardian can be made to pay only for harm to another person caused by the child's willful misconduct. There is usually a limit about how much you may need to pay.

Negligent conduct. You can be made to pay for harm caused by the child's negligent conduct. If you're concerned about this duty, you should talk to a lawyer.

(26) Pay for the child's needs

The parents are still legally responsible for child support, but you can accept this responsibility. You can get money to help you support the child. See page 5 for more information.

(27) Obey all court orders

The court may require you to accept other duties. For example, the judge may order you to take the child to visit a parent or other relative. You must do what the court orders.

WHAT FINANCIAL SUPPORT CAN I RECEIVE?

You may be able to get financial help from the county, state, or federal government. The type of help depends on the child's eligibility and their relationship to you.

Important! Before you become the child's guardian, ask the child's social worker or probation officer or a lawyer if you will qualify for financial help. For a detailed comparison of services and supports available to foster parents, relative caregivers, and guardians, read *Comparison Between Guardianship and Other Nonparent Caregivers* (form GC-207-INFO/JV-352-INFO).

If the child is related to you

If you become the guardian of a child who is a relative, you may qualify for financial help from these programs:

- **Kin-GAP program:** If the child has lived with you for at least six months after resource family approval, you sign a written agreement, and the court dismisses the case, you can qualify for Kin-GAP payments. Kin-GAP gives you the same monthly payments as a foster parent caring for a foster child, including any rate the county might pay to care for the child's special needs. You can receive Kin-GAP in any county or state, but the amount may change based on where you live. In California, the payments are the same amount as foster care payments.
- **Approved Relative Caregiver (ARC) or foster care program:** If the court keeps the juvenile case open after appointing you guardian, you can receive ARC or foster care payments instead of Kin-GAP.
- **CalWORKs (cash assistance):** In very rare situations, you may not qualify for Kin-GAP, foster care, or ARC payments. In those cases, you may still qualify for CalWORKs payments. If you have a low income, you may get a full CalWORKs grant. If your income is too high to qualify for a full grant, you may still receive a "child-only" CalWORKs grant.
- **Health care:** Children who qualify for Kin-GAP can get health care through Medi-Cal.

- **Independent living program (ILP):** Beginning at age 16, most children can receive ILP funds and services to help them become successful adults. The services available depend on the child's age when Kin-GAP payments started.

If the child is NOT related to you

In California, guardians who are not related to the child are eligible for foster care payments from the state. You can receive these payments in any county or state, but the amount may change based on where you live. Before you move, ask if the rate will change! If you receive these payments, a case worker will visit you every six months.

- **Health care:** Children who qualify for foster care payments can get health care through Medi-Cal.
- **Independent living program (ILP):** Beginning at age 16, most children can receive ILP funds and services to help them become successful adults.

If you keep supporting the child after age 18

Payments can continue after the child turns 18 if you continue to care for and support the youth, the youth meets all other eligibility requirements, and you both sign written agreements.

Generally, Kin-GAP payments end when a child turns 18, *unless* the payments started after the child turned 16 (they continue until age 21) *or* the child has a mental or physical disability (funding continues until 21) *or* the child is in high school (funding continues until 19 or graduation).

Important! Talk to the child's social worker or probation officer or a lawyer a few months *before* the child turns 18 to make sure the child doesn't miss any payments.

Other financial help

If you do not qualify for Kin-GAP or foster care payments, you may be able to get Social Security, Supplemental Security Income (SSI), Medi-Cal, or other financial help.

You can also get help and information from the local agencies on the attached list. *[Attach a list of agencies and their contact information]:*