

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT SPR22-18

Title	Action Requested
Rules and Forms: Guardianship Objection	Review and submit comments by May 13, 2022
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Approve form GC-215	January 1, 2023
Proposed by	Contact
Probate and Mental Health Advisory Committee Hon. Jayne Chong-Soon Lee, Chair	Corby Sturges, 415-865-4507 corby.sturges@jud.ca.gov

Executive Summary and Origin

The Probate and Mental Health Advisory Committee proposes approving one form for optional use by parents, relatives, and other interested persons to object to a petition to appoint a probate guardian of a child. In guardianship proceedings, most parties and interested persons are self-represented. The petitions, forms GC-210 and GC-210(P), provide a framework for petitioners to specify their requests and allegations in appropriate categories. There is currently no Judicial Council form for objecting to a guardianship petition. Courts and self-help centers have indicated that the lack of a simple, standard form places objectors at a disadvantage and often leaves courts unable to discern the bases for the objections. The proposed form is intended to address these concerns.

The Proposal

The Probate and Mental Health Advisory Committee proposes that the Judicial Council, effective January 1, 2023, approve *Objection to Petition for Appointment of Guardian* (form GC-215) for optional use. The form would give a person who objects to a guardianship petition a framework for articulating their objection.

The vast majority of probate guardianship petitions in California request appointment of a guardian of the child's person, and not of the estate. Most petitioners and objectors in those proceedings are self-represented. The existing petition forms, *Petition for Appointment of Guardian of Minor* (form GC-210) and *Petition for Appointment of Guardian of the Person* (form GC-210(P)), provide alternative frameworks for petitioners to clarify their requests and allegations, separating them into appropriate categories. These forms help petitioners to

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 It is circulated for comment purposes only.

articulate the issues the court needs to address; they also help the court to identify any issues of fact and determine whether it needs more evidence to resolve those issues.

No complementary Judicial Council form exists for use by persons who wish to object to a petition for appointment of a guardian. Courts and self-help centers across the state have requested the development of an objection form because the lack of a form leaves objectors without guidance on how to focus and structure their objections. This lack of focus and structure often leaves courts, in turn, unable to discern the nature of the objections or the bases for them.

Proposed form GC-215 would address these issues. First, it would require an objector to identify the petition to which their objection applies by providing the name of the petitioner. Second, it would require an objector to specify the children who fall within the scope of the objection. Frequently, a petition for appointment of a guardian of the person will include children who have different fathers. A father or a paternal relative of fewer than all the children subject to the petition may wish to object to the appointment of a guardian of only those children to whom they are related. The proposed form would give them that option. Third, the proposed form would require an objector to specify their relationship with, or connection to, the child or family.

Fourth, the proposed form would allow an objector to contest the establishment of a guardianship over the child or children covered by the objection. In most circumstances, an objection focuses on whether the child needs a guardianship at all. This element of the form would focus the objector on this issue and require them to explain why they think a guardianship is not needed.

Fifth, the proposed form would allow an objector to contest the appointment of the person proposed as guardian by the petition. An objector may agree that a guardianship is needed because the child's parent cannot care for the child—but think that appointment of a different person as guardian would be better for the child. This element of the form would focus the objection on the reasons the objector thinks the proposed guardian should not be appointed.¹

Finally, the form would allow an objector to contest other requests made in the petition. These might include requests for specific visitation orders or for independent powers.

Alternatives Considered

The committee considered taking no action, but concluded that the form would both assist self-represented objectors to clarify their objections to the requested guardianship and help courts to identify and determine contested issues and make informed decisions about the best interests of children. The committee also considered proposing the form's adoption for mandatory use, but determined that a mandatory form would be inconsistent with Probate Code section 1043, which allows an interested person to choose to appear and object in writing at or before a hearing on a petition or to appear and object orally at the hearing.

¹ An objector would need to file a separate petition if they wanted to ask the court to appoint a different person as guardian.

Fiscal and Operational Impacts

The proposed form would impose indeterminate costs on the courts attendant to updating case management systems and changing operating procedures. It is possible that the form, by providing a framework for objecting to a guardianship petition, could lead to marginal cost savings by reducing the length of hearings and the need for continuances.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?

The advisory committee also seeks 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. Form GC-215, at pages 4–5

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
GUARDIANSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (name):	CASE NUMBER:
MINOR(S)	HEARING DATE: DEPT.: TIME:
OBJECTION TO PETITION FOR APPOINTMENT OF GUARDIAN	

1. I (name): _____ object to the petition for appointment of a guardian filed by
 (name of petitioner): _____

2. My objection concerns the following child or children (give full name and date of birth for each):

a. Child (name): _____ (date of birth): _____

b. Child (name): _____ (date of birth): _____

Additional children identified on Attachment 2.

3. My relationship to the child or children named in item 2 is (tell the court about your connection with the child, children, or family):

Continued on Attachment 3.

4. I object to a guardianship of the child or children named in item 2 because (tell the court why you think it should not appoint a guardian):

Continued on Attachment 4.

5. I object to the person the petitioner has asked the court to appoint as guardian because (tell the court why you think that person should not be the guardian):

Continued on Attachment 5.

GUARDIANSHIP OF <i>(name)</i> :	CASE NUMBER:
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6. I object to other requests in the petition because *(tell the court which requests you object to and why you object to each one)*:

Continued on Attachment 6.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF ATTORNEY)

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

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF OBJECTOR)

(TYPE OR PRINT NAME)



(SIGNATURE OF OBJECTOR)