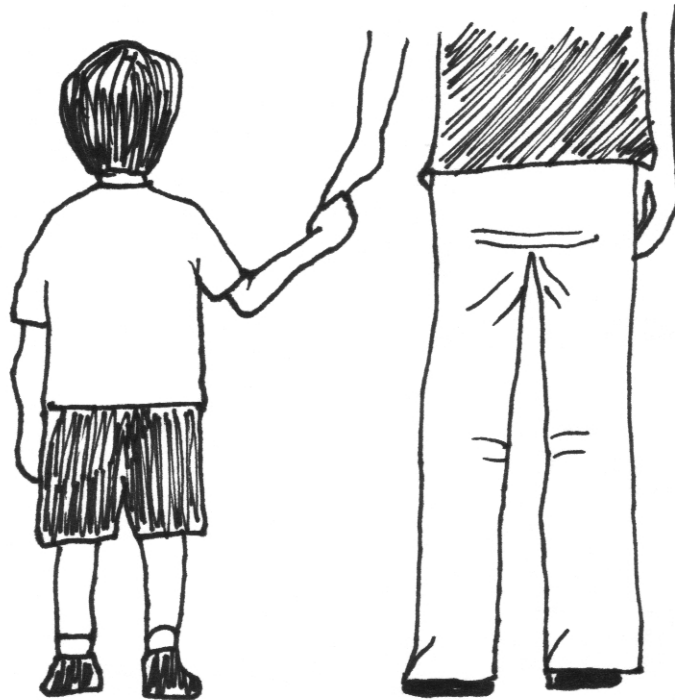


How to Become a Probate Guardian of a Child in San Francisco



Written by
San Francisco Superior Court
Probate Department

The following people and organizations have made this book possible:

Honorable John Dearman, Presiding Judge of the Probate Court

Commissioner Dorothy McMath, Commissioner of the Probate Court

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Legal Services for Children

Administrative Office of the Courts

ACCESS Center, San Francisco Superior Court

Transcend

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Who is this manual for?

This manual is not for everyone. It is for adults who do not have a lawyer and want to be the probate guardian of a child.

Also,

- ◆ the person who wants to be the probate guardian and the child must both live together in San Francisco now,
- ◆ the child must have little or no money, no estate, and no inheritance, and
- ◆ The child must not be involved in a juvenile dependency case.

This manual has information on:

- ◆ How to fill out the forms you need to become a probate guardian
- ◆ Your rights and responsibilities as a probate guardian
- ◆ Resources in our community that can help you

There are other ways you can care for the child without becoming the legal guardian. Read pages 1–2 of this manual and talk to an experienced family law lawyer.

If you do not have a lawyer, call the San Francisco Bar Association:
415-989-1616

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What is probate guardianship?

There are several kinds of guardianships. This manual talks about *Probate Guardianship of the Person*. This is when the Court appoints an adult who is not the child's parent to take care of the child.

What does a probate guardian do?

For the most part, the guardian has the same responsibilities as a parent. This means the guardian has full legal and physical custody of the child.

The guardian is responsible for the child's care, including the child's:

- ◆ Food, clothing and shelter
- ◆ Safety and protection
- ◆ Physical and emotional growth
- ◆ Medical and dental care
- ◆ Education and any special needs

The guardian may also be responsible for the child's behavior and any damage the child may cause.

Is probate guardianship always necessary?

No. In fact, many adults who take care of a child avoid becoming a legal guardian because:

- ◆ The caregiver believes the child's parents will not agree to a legal guardianship.
- ◆ Filing for guardianship would cause too many problems between family members.

- ◆ The caregiver doesn't want the Court to monitor his or her personal life.
- ◆ The caregiver will only care for the child for a short period of time and the parents are willing to sign a private, written agreement giving the caregiver informal "custody" of the child.

What if the parents can't sign a private, written agreement with the caregiver?

If the parents are not available to sign a private agreement, you can fill out a *Caregiver Authorization Affidavit*.

The *Caregiver Authorization Affidavit* is not an official court form. But, the law says you can fill out this form if you are related to the child. The affidavit usually lets you enroll the child in school and get medical care for the child.

Where can I get a Caregiver Authorization Affidavit form?

You can get it from:

- ◆ a legal forms book at a bookstore or stationery store
- ◆ a lawyer, or
- ◆ ACCESS Center, in Room 208 (Call: 415-551-5880 for 24 hr recorded info.)

With a letter from the parents or a Caregiver Authorization Affidavit can I meet all the child's needs?

Maybe not. Here's why:

- ◆ Not all schools or medical facilities accept a private agreement or a *Caregiver Authorization Affidavit*.
- ◆ The parents can cancel a private agreement or a *Caregiver Authorization Affidavit* at any time and take the child.
- ◆ It may be hard for you to get medical insurance for the child unless you are the legal guardian.

Can I establish a probate guardianship for my child if I am dying?

If you have an incurable illness, you can ask the Court to appoint a joint guardian for your children. (You must have legal custody of the children.)

If the Court approves a *Joint Guardianship*, both you and the guardian will act as parents while you are alive. And, when you die, the joint guardian will have full legal custody of the child without another guardianship hearing.

What all guardians need to know...

Do I decide where the child will live?

Yes. As guardian, you decide where the child lives. But, if you or the child moves, you **must** tell the Court in writing — even if the child is moving to or from the guardian's or parent's home.

What if I want to move the child out of California?

You cannot move the child out of California without first getting the Court's permission.

What if we move within California?

If you move to another place in California, give the Court the new address and phone number right away.

Remember: Even if you move to a different place in San Francisco, you must give the Court your new address and phone number right away.

Do I make the decisions about the parents' contact with the child?

In general, yes. You get to make appropriate decisions. But, the Court may order you to allow visitation.

If you are worried about the child's safety, ask the Court for supervised visitation.

Do I make the decisions about the child's education?

Yes. You decide where the child goes to school. You must also help the child get any special services, like tutoring, if the child has special needs.

You are the child's advocate in the school system. This means you must go to parent-teacher conferences, stay involved in the child's education, and help the child meet his or her educational goals.

Do I make the decisions about healthcare for the child?

Yes. You must take care of the child's medical and dental needs. This means keeping in touch with the child's doctor and dentist and making sure the child gets proper care.

In most cases, you can make decisions about any treatment the child needs. You can add the child to your own private insurance, or enroll the child in Medi-Cal or Healthy Families. (The Department of Human Services can help you with Medi-Cal and Healthy Families.)

Do I make the decisions about the child's mental healthcare?

Yes. If the child needs it, you must arrange for counseling or other mental health services. You must also work with and keep in touch with the child's counselors.

Can I place the child in a mental health institution?

No. You cannot place the child in a mental health institution if the child does not want to be there.

If you feel the child needs to be in a mental health institution and the child does not want to go, you **must** contact the Court.

What if the child wants a driver's license?

You can give the child permission to apply for a driver's license. You can also choose to not give your permission. If you let the child get a license, you must also get auto insurance for the child.

Remember: If the child has an accident, you may be responsible for any damages caused by the accident.

What if the child wants to enlist in the military?

You can give the child permission to enlist in the military. If the child enters into active duty with the armed forces, you will no longer be the guardian. California law will consider the child to be an adult.

What if the child wants to get married?

A child under 18 cannot get married without your permission and the Court's approval. If the child marries, you will no longer be the guardian. California law will consider the child to be an adult.

Can the Court ask me to take on other responsibilities?

Yes. At least once a year, you will turn in a Status Report to the Court. You must also meet with Court Visitors from the Guardianship Monitoring Program and come to Court when the Court tells you to. The Court can also order you to take on other duties or can place special conditions on you as guardian, if needed.

What if the Court appointed a lawyer for the child?

The lawyer represents the child only. The lawyer does not represent you.

If the lawyer wants to talk to the child, you must let them.

Can I get financial help to take care of the child?

You may be able to get child support or help from the government, like TANF (Temporary Aid to Needy Families), Social Security, Veterans Administration, or Indian Child Welfare benefits. Apply at the Department of Human Services.

For more information, call:

Department of Human Services
(415) 557-5000
TTY (415) 557-5214

Social Security Administration
(800) 772-1213
TTY (800) 325-0778

Veterans Administration
(800) 827-1000
TTY (800) 829-4833

What forms do I fill out to become the guardian?

1. Make sure you have these forms.

'Help bubbles' on each sample form will guide you.

The name of the form and the form number are always in the same place.

- ◆ *Petition for Appointment of Guardian**, GC-210
- ◆ *Declaration of Proposed Guardian**, PGF-1
- ◆ *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act**, FL-105/GC-120
- ◆ *Notice of Hearing**, GC-020
- ◆ *Confidential Guardian Screening Form**, GC-212
- ◆ *Duties of Guardian**, GC-248
- ◆ *Consent of Proposed Guardian, Nomination of Guardian and Waiver of Notice*, GC-211
- ◆ *Order Appointing Guardian of Child*, GC-240
- ◆ *Letters of Guardianship*, GC-250
- ◆ *Proof of Service*, 982 (a)(23)
- ◆ *Background Check*

Sometimes the forms ask you for more information, like copies of documents or explanations. These are called *Attachments*.

If you need to add an Attachment, write this information at the top of each one:

Attachment to Question # _____,
Form # _____

The image shows a sample form titled "ORDER ON APPLICATION FOR WAIVER OF COURT FEES AND COSTS" from the Superior Court of California, County of... The form includes fields for attorney information, defendant/respondent information, and a list of court fees and costs to be waived. It also contains a "NOTICE" and "WARNING" section at the bottom.

2. Fill out the forms. Then, make an appointment with a Probate paralegal volunteer: 415-551-3650

Take your forms with you to the appointment. Fill out your forms *before* you see the volunteer.

3. After you meet with a Probate paralegal, make 3 copies of all forms marked with an *. You must 2-hole punch the top of each form. The Probate paralegal will help you. Then, file your forms at the Court Clerk's office.

Clerk's Office, Room 103,
Probate Window
San Francisco Superior Court
400 McAllister Street, San Francisco

The clerk will ask you to pay a fee (at least \$239.50). Keep your receipt. You may need it later.

If you can't afford to pay the Court fees, fill out the:

- ◆ *Application for Waiver of Court Fees and Costs, 982(a)(17), and*
- ◆ *Order on Application for Waiver of Court Fees and Costs, 982(a)(18)*

4. The clerk will keep the original forms and give you back 2 "Endorsed Filed" copies.

The clerk will stamp your hearing date on the petition. This is the date the judge will hear your case.

5. Giving notice is complicated. Read *How to Give Notice* on page 7.

After you give notice (by mail or in person), go to the Access Center in Room 208 and ask them to review your form. (The Probate paralegal will give you a referral to the Access Center.)

Then, file your Proof of Service at the Court Clerk's office in Room 103.

Sometimes it is impossible to notify parents or other relatives. If so, you may need to fill out one of these forms:

- ◆ *Request and Order to Mail Notice, PGF-2*
- ◆ *Request to Excuse Notice, PGF-3*

6. The Court investigator will call you and set up a home visit. Sometimes the investigator will meet with you and the child more than once.

The Court wants the investigator to:

- ◆ See where the child will be living
- ◆ See if you can care for the child
- ◆ Interview the parents, if needed
- ◆ Review your criminal record and child protective service record – if you have one. The investigator will also check the records of other people who live with you.
- ◆ Write a report for the Court
- ◆ Make recommendations about your case

How to Give Notice

The law says you **must** “give notice” to certain people, relatives and agencies. This means someone — **not you** — must “serve” (give) copies of your Court forms to those people and agencies so they will know you are asking to be the guardian of the child.

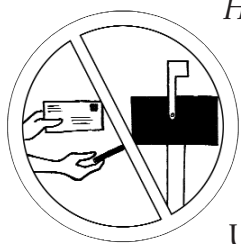
You must do this even if you think they don’t care or may disagree with you.

There are rules for giving notice. Follow them carefully. Otherwise, you may have to go back to Court.

There are 2 kinds of notice: *personal* and *by mail*.

Give personal notice to the parents, the person with legal custody of the child now, and the child (if the child is 12 or over)

This means the server — **not you** — personally hands a copy of the *Notice of Hearing and Petition for Appointment of Guardian* and all other forms you filled out at least 15 days before the Court hearing.



Unless the judge gives you special permission, you **cannot** serve the parents by mail.

Give notice by mail to the child’s grandparents*, brothers and sisters, and half-brothers and half-sisters

This means the server — **not you** — mails a copy of the *Notice of Hearing and Petition for Appointment of Guardian* and all other forms you filled out at least 15 days before the Court hearing.

If one of these relatives is in jail, ask someone 18 or over — **not you** — to mail the notice to that person in jail.

** Note: The child’s grandparents means the parents of the child’s mother and the parents of the child’s father.*

What if the parent(s) and relatives all agree I can be the guardian?

If they all agree you can be guardian and they do not want to get a notice of the hearing, ask them to fill out and sign the *Consent and Waiver of Notice* part of form GC-211.

You do not have to give notice to anyone who signs this part of the form. If they do not sign the form, you still have to give notice, even if they say they agree.

Give notice by mail to the San Francisco Department of Human Services

This means the server — **not you** — mails a copy of:

- ◆ *Notice of Hearing*, GC-020
- ◆ *Petition for Appointment of Guardian*, GC-210
- ◆ *Confidential Guardian Screening Form*, GC-212
- ◆ *Declaration of Proposed Guardian*, PGF-1
- ◆ *Background Check*

The server must mail the forms at least 15 days before the Court hearing to:

San Francisco Department of
Human Services
Legal Guardianship Unit, J530
P.O. Box 7988
San Francisco, CA 94120

DHS will do a background check on you and any other adult who lives in your home to see if there have been child abuse or criminal charges.

Give notice by mail to the California Department of Social Services

If you are not related by blood, marriage or adoption to the child, someone — **not you** — must mail a copy of the same forms mailed to Department of Human Services at least 15 days before the Court hearing to:

State Department of Social Services
Director of Social Services
744 P Street
Sacramento, CA 95814

What if I don't know where the parents or relatives are?

Try to find the parent(s) or relatives by:

- ◆ asking all family members,
- ◆ looking in phone books, or
- ◆ calling telephone information.

If you still cannot find the parent(s) or relatives, fill out *Request to Excuse Notice*, PGF-3, then file it at the Court Clerk's office.

What if someone I need to give personal notice to is in jail?

Contact the jail or prison, and ask them to personally serve the forms at the jail or prison.

If the jail can't personally serve the papers, you must fill out a special form to ask the Court for permission to serve by mail (*Request and Order to Mail Notice*, PGF-2). Bring the completed form to the Probate Office, Room 202, so the judge can review it.

If the judge signs the Order section of the form, this means you can have someone — **not you** — serve the court forms *by mail* to the person in jail.

What if a parent is out-of-state or in another country?

You must still get a server — **not you** — to personally hand a copy of the *Notice of Hearing* and *Petition for Appointment of Guardian* and all other forms you filled out at least 15 days before the Court hearing.

If the server was not able to personally serve the parent(s), you must fill out a special form to ask the Court for permission to serve by mail (*Request and Order to Mail Notice*, PGF-2). Bring the completed form to the Probate Office, Room 202, so the judge can review it.

If the judge signs the Order section of the form, this means you can have someone — **not you** — serve the parent(s) the court forms *by mail*.

Who can serve?

Ask someone you know who is 18 or over. Or ask a process server. A “Process Server” is a business you pay to deliver Court forms. Look in the Yellow Pages, under “Process Serving.”

What happens after the server serves the forms?

The server must fill out and give you a proof of service.

For **in person** service, the server fills out and signs the *Proof of Service*, form 982(a)(23), then gives it to you.

For service **by mail**, the server fills out and signs the *Proof of Service by Mail* on the back of the *Notice of Hearing* form, then gives it to you.

Take your Proof of Service forms to the Access Center for review. Then, file them at the Court Clerk’s office, Room 103, Probate Window.



Get ready for your hearing

Go to your hearing.

Look at the Petition you filed with the Clerk to find the date, time and room of your hearing.

Both you and the child must go to the hearing. Other relatives and friends can go to the hearing, too.

Get there at the hearing time. Don't be late!

- ◆ Find the Courtroom and sit down inside
- ◆ You will see a video about Guardianship before your hearing
- ◆ Wait for your name to be called
- ◆ Watch the other cases so you will know what to do

What to bring to your hearing:

- ◆ The child
- ◆ *Order Appointing Guardian of the Child*
- ◆ *Letters of Guardianship*
- ◆ Copies of signed *Proof of Service* of notice

If you don't speak English well, bring an interpreter.

The judge may ask you why you want to be the guardian.

Write down what you want to say. Practice saying it in less than 2 minutes. If you get nervous, just read what you wrote down.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address) TELEPHONE AND FAX NO. FOR COURT USE ONLY GC-210

ENDORSED
FILED
MAR 18 2003
GORDON PARK-LI, Clerk
BY: CYNTHIA S HERBERT
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF
STREET ADDRESS: 400 McAllister Street
MAILING ADDRESS: Probate Dept., Room 303
CITY AND ZIP CODE: SAN FRANCISCO CA 94102
BRANCH NAME:

GUARDIANSHIP OF (Name): APR 17 2003
MINOR
 Person Estate

PETITION FOR APPOINTMENT OF GUARDIAN OF MINOR MINORS
 Person Estate

1. Petitioner (name): requests that (Telephone):
a. (Name and address): be appointed guardian of the PERSON of the minor and Letters issue upon qualification.
b. (Name and address): (Telephone): be appointed guardian of the ESTATE of the minor and Letters issue upon qualification.
c. the proposed guardian be appointed for several minors who are brothers and sisters. The information requested in Items 2-11 for each additional minor is supplied in Attachment 1c.
d. (1) bond not be required because proposed guardian is a corporate fiduciary or an exempt government agency for the reasons stated in Attachment 1d.
(2) \$ _____ bond be fixed. It will be furnished by an authorized surety company or as otherwise provided by law. (Specify reasons in Attachment 1d if the amount is different from minimum required by Prob. Code, § 8482.)
(3) \$ _____ in deposits in a blocked account be allowed. Receipts will be filed. (Specify institution and location);
e. authorization be granted under Probate Code section 2520 to exercise independently the powers specified in Attachment 14.
f. orders relating to the powers and duties of the proposed guardian of the person under Probate Code sections 2351-2358 be granted (specify orders, facts, and reasons in Attachment 1f).
g. an order dispensing with notice to the persons named in Attachment 15 be granted.
h. other orders be granted (specify in Attachment 1g).
2. The minor is (name): married unmarried
(Present address and telephone):
3. Date of minor's birth: 6. a. The petitioner having legal custody of the minor is (name and address):
4. Petitioner is a. related to the minor as (specify); b. (Complete only if this person is one other than the person having legal custody.) The person having the care of the minor is (name and address):
b. a minor 12 years of age or older;
c. other person on behalf of minor (specify);
5. The proposed guardian is a. nominee (affix nomination as Attachment 5).
b. related to minor as (specify);
c. other (specify);
7. The minor a. is is not a patient in or on leave of absence from a state institution under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services (specify state institution);
b. is neither receiving nor entitled to receive is receiving or entitled to receive benefits from the Veterans Administration (estimate amount of monthly benefit payable): \$ _____
c. does does not have Native American ancestry. (Provide information required by Indian Child Welfare Act as Attachment 7c).
Do NOT use this form for a temporary guardianship. (Continued on reverse)

From: Approved by the Superior Court of California, County of San Francisco, January 1, 2001. PETITION FOR APPOINTMENT OF GUARDIAN OF MINOR WEST GLEBE Probate Code, § 1510

The judge may also ask the child questions.

Tell the child to tell the truth and speak slowly. If you or the child do not understand, say "I don't understand."

The judge will decide right away if you can be the guardian.

If the judge "grants" your petition, give the Court clerk your *Order Appointing Guardian of the Child* form.

The judge will sign the *Order* and you will sign the *Letters of Guardianship*.

Take both forms to the clerk's office to certify and file them.

What happens after the hearing?

Do I need to stay in touch with the Court?

If the judge says you can be the child's guardian, your relationship with the Court does not end, even after you file all your papers with the Court Clerk.

Every year (or sometimes more often) the Court will mail you a status report to your home address.

Fill it out and return it to the Probate Department. The Court investigator will read your report. If there are no problems, the Court will send you a new status report in a year.

Sometimes the Court will want more status reports or the Court can order you to come speak to the judge.



Can the Court visit our home?

Often, the Court refers cases to the Guardianship Monitoring Program. If this happens, a volunteer will go to your home one year after guardianship is granted and then every 2 years after that.

If there are any problems, the Court will look at the case and take steps to help the guardian.

The Court can order the guardian to come to Court or can appoint a lawyer for the child.

How long will I be guardian?

You will be the child's guardian until one of these things happens:

- ◆ The child turns 18;
- ◆ The child is adopted, marries, enters the military or is emancipated by Court order;
- ◆ The Court ends the guardianship;
- ◆ A different person (successor guardian) becomes the guardian; or
- ◆ The child dies before turning 18.

What if the child, the child's parent, or the guardian wants to end the guardianship?

If one of these people wants to end the guardianship, they must fill out and file a form (*Petition for Termination of Guardianship*). They must show the Court the guardianship is no longer needed or that ending the guardianship would be in the child's best interest.

For help on filling out the forms to end a guardianship, contact the ACCESS Center, in Room 208.

Need more help?

Legal help

If the child is 12 or older and lives in San Francisco, you may be able to get free legal help from *Legal Services for Children*.

Children are also welcome to call:
(415) 863-3762
1:30 – 5:00 p.m., Monday – Friday

Or, to find a lawyer, call the Bar Association of San Francisco:
(415) 989-1616

Support for Guardians

If you need help with extracurricular activities, finding a tutor, or just getting a break from it all (called respite), call the Edgewood Center:
(415) 865-3000

If you need someone to talk to, or want counseling over the phone, call the Parental Stress line:
(415) 441-5437, 24 hours

For counseling, call San Francisco Mental Health Access:
(415) 255-3737

Financial help

To see if you can get financial help, call CalWorks:
(415) 557-5723

Support for Children

Children who need support or counseling, can call:

San Francisco Mental Health Access:
(415) 255-3737

For kids who are having problems with guardians, call Comprehensive Child Crisis Services any time:
(415) 970-3800
24 hour, 7 days, many languages