

FILING FOR GUARDIANSHIP OF A MINOR
CAO Instruction #20

Summary of Steps

- Step 1: Talk to an Attorney, if Possible
- Step 2: Obtain and Complete the Required Forms
- Step 3: Make Copies and File With the Clerk
- Step 4: Wait for the Court clerk to contact you for a hearing
- Step 5: Serve notice
- Step 6: Attend the Hearing

Step 1: Talk to An Attorney, If Possible

Talk to An Attorney, If Possible. Warning: When you represent yourself in a court case you are held to the same standard as an attorney. This applies to your preparation of paperwork and your conduct at all hearings and/or trial. Your lack of legal knowledge may cause you to make serious errors in handling your case. These instructions are not a substitute for legal advice. The laws and court rules are complex and following these instructions will not guarantee that your rights are protected or that you will be satisfied with the result. You should always talk to a lawyer about your legal problems before filing any legal paperwork. Even if you do not hire a lawyer to appear in your case, a lawyer can give you more information about your rights. Call the Idaho State Bar (208-334-4500) to provide you with the name of an attorney who handles this type of case.

Step 2: Obtain and Complete the Required Forms. These forms are applicable only for guardianship of a minor when both parents are consenting to the guardianship. If either parent of the minor does not consent to the proposed guardianship, you should consult an attorney and not attempt to proceed on your own. A contested guardianship case will quickly become complicated.

Fill in the forms by typing or by printing neatly and legibly in black ink. Optional sections are shown with a boldface “**or**”. If the section does not contain a boldface “**or**” it is necessary and you should type in the appropriate information (which might be the word “none”). Always keep a copy of the completed form for your records.

You will need to obtain the following forms:

- Petition for Appointment of Guardian of a Minor, CAO 14-1
- Sworn Consent to Appointment of Guardian, CAO 14-2
- Nomination by Minor, CAO 14-3 (if minor is over 14 years old)
- Notice of Guardianship Petition and Hearing, CAO 14-5

- ❑ Order Appointing Guardian of Minor, CAO 14-11
- ❑ Sworn Acceptance of Appointment by Guardian, CAO 14-9
- ❑ Letters of Guardianship, CAO 14-12
- ❑ Order Appointing Guardian Ad Litem, CAO 14-19

If temporary guardianship is desired, you will also need:

- ❑ Order Appointing Temporary Guardian, CAO 14-8
- ❑ Letters of Temporary Guardianship, CAO 14-10

If you don't have a contact address for a parent, you will also need:

- ❑ Affidavit of Service of Petition for Appointment, CAO 14-6.

Complete the forms listed above. All pleadings must have the petitioner's name, address, and phone number on the top left corner, the court district number and county name in the court caption, and the minor's name and date of birth in the caption under "In the Matter of:" Any pleadings that are filed after the case has been opened must have the case number entered on it in the space for the case number.

Note: Not all of the documents discussed below have numbered items; for those paragraphs or lines that are not numbered, a heading or first words of a line or section will be used in these instructions to identify where you need to enter certain information.

1. Petition for Appointment of Guardian of a Minor, CAO 14-1

A. Body of Petition:

Enter your name after "Petitioner" in the first line.

Paragraph # 1 Enter your relationship to the minor, and the minor's name.

Paragraph # 2 Enter the minor's age and birth date.

Paragraph # 4 Check the appropriate box for your situation.

Paragraph # 6 Check either a, b, or c, whichever is correct for your case.

Paragraph # 7 Briefly state why the guardianship is in the best interest of the minor.

Paragraph # 8 List the name, address and relationship to the minor of the people that you must give notice. According to I.C. 15-5-207(a), notice must be given to: the minor (if over 14 years old), the person who has had principal care and custody of the minor during the sixty days preceding the date of the petition, and any living parent of the minor.

Note: If Child Protection Services is involved with the minor in **any way**, notice **must** be sent to them including a copy of the Petition for Appointment of Guardian of a Minor, CAO 14-1, Sworn Consent to Appointment, CAO 14-2, and Notice of Guardianship Petition and Hearing, CAO 14-5.

Paragraph # 10 If a temporary guardian needs to be appointed, briefly state the reason why.

B. Prayer for Relief:

Paragraph # 3 Enter your name, as proposed guardian here.

Paragraph # 5 Check the box and enter the name of person to be temporary guardian if necessary.

Sign and date the Petition and Verification section in front of a notary public. You can find a notary public in the courthouse. Make a copy of the Petition for Appointment of Guardian of a Minor, CAO 14-1 for your records, and one copy for each person that must be notified as described above.

2. Sworn Consent to Appointment of Guardian, CAO 14-2

Complete all caption information as on the petition. All pleadings must have the petitioner's name, address and phone number on the top left corner, the court district number and county name in the court caption, and the minor's name in the caption under "In the Matter of:" Any pleadings that are filed after the case has been opened must have the case number typed on it in the space for the case number.

Consent is required from each living parent in order to proceed with a guardianship. If either parent of the minor does not consent to the proposed guardianship, you should consult an attorney and not attempt to proceed on your own. A contested guardianship case will quickly become complicated.

Paragraph # 1 Enter the name of the parent or other person who is giving consent to the appointment of a guardian of the minor.

Paragraph # 2 Check letter 'a' to renounce the right to nominate a guardian. Check letter 'b' to nominate someone to be guardian. If letter 'b' is checked, list the name and address of the person who is being nominated. Each parent of the minor must sign and date a Sworn Consent to Appointment in front of a notary public. The Sworn Consent to Appointment may be filed at the time you file the Petition. Make a copy to be conformed for your files.

3. Nomination By a Minor, CAO 14-3

Complete all caption information. All pleadings must have the petitioner's name, address and phone number on the top left corner, the court district number and county name in the court caption, and the minor's name in the caption under "In the Matter of:" Any pleadings that are filed after the case has been opened must have the case number typed on it in the space for the case number. If minors are over 14 years old, they may nominate the person they want to be their guardian.

In the body of the nomination, after "nominate", enter the name of the person being nominated by the minor. The minor must sign and date this form and list their address and phone number. This form should be filed when you file the petition. Make a copy to be conformed for your files.

4. Sworn Acceptance of Appointment by Guardian, CAO 14-9

Complete all caption information as on the petition. All pleadings must have the petitioner's name, address and phone number on the top left corner, the court district number and county name in the court caption, case number, and the minor's name in the caption under "In the Matter of:"

In the body of document, after 'guardian of', enter the minor's name. The proposed

guardian must sign the Sworn Acceptance of Appointment by Guardian, CAO 14-9 in front of a notary public. You can find a notary public in the courthouse. The Sworn Acceptance of Appointment by Guardian should be filed at the same time as the petition. Make a copy to be conformed for your files.

5. Notice of Guardianship Petition and Hearing, CAO 14-5

Complete caption information as on the petition. All pleadings must have the petitioner's name, address and phone number on the top left corner, the court district number and county name in the court caption, case number, and the minor's name in the caption under "In the Matter of:"

In the body of the document:

Paragraph # 1 Enter the date the petition was filed.

Paragraph # 2 Check letter 'a' if you are attaching a copy of the petition to the notice being sent to a person. Check letter 'b' if not attaching a copy of the petition to the notice. A copy of the petition is usually included when sending notice to someone.

Paragraph # 3 Leave this date blank unless you have been given a court date by the clerk. (In Ada County, after the judge has reviewed the file and the judge determines that there will be a hearing, the judge's clerk will schedule the hearing, fill in the date and time of the hearing, file the original, and send you the copy of the notice.)

Date and sign the Notice of Guardianship Petition and Hearing, CAO 14-5.

On the second page, Certificate of Service: Complete this by entering the date of mailing the notice and list the names and addresses of people the notice is being sent to. Sign the certificate in front of a notary public.

6. Order Appointing Guardian Ad Litem, CAO 14-19

Complete caption information as on the petition. All pleadings must have the petitioner's name, address and phone number on the top left corner, the court district number and county name in the court caption, case number, and the minor's name in the caption under "In the Matter of:" Fill out the address blanks on the Certificate of Service on page 3, but do not sign. The judge will fill out the remainder of the form. The Guardian Ad Litem is a court appointed attorney who will represent the minor. **The Petitioner is required to pay for the Guardian Ad Litem.**

7. Order Appointing Temporary Guardian, CAO 14-8

Temporary guardianship may be requested in situations when guardian powers are going to be needed before the appointment of a permanent guardian. Temporary guardianship must be requested in the petition if it is wanted. The Order Appointing Temporary Guardian, CAO 14-8 and Letters of Temporary Guardianship, CAO 14-10 should be given to the clerk at the time the petition is filed. When the judge reviews the file, he or she may sign the Order Appointing Temporary Guardian, CAO 14-8 and Letters of Temporary Guardianship, CAO 14-10, which would then be filed by the clerk.

Complete all caption information as on the petition. All pleadings must have the petitioner's name, address and phone number on the top left corner, the court district number and county name in the court caption, case number, and the minor's name in the

caption under “In the Matter of:”

In the body of the order, after “filed by” enter your name.

Paragraph # 1 Enter the name of the person who is to be the temporary guardian and then in the space after “for” enter the name of the minor.

Paragraph # 3 Enter the name of the temporary guardian.

8. Letters of Temporary Guardianship, CAO 14-10

Complete all caption information as on the petition. All pleadings must have the petitioner’s name, address and phone number on the top left corner, the court district number and county name in the court caption, case number, and the minor’s name in the caption under “In the Matter of:”

In the body of the document on the first line, enter name of guardian. Leave the date blank for the judge to enter and sign.

9. Order Appointing Guardian of Minor, CAO 14-11

Complete all caption information as on the petition. All pleadings must have the petitioner’s name, address and phone number on the top left corner, the court district number, and county name in the court caption, case number, and the minor’s name in the caption under “In the Matter of:” Bring this document to the hearing for the judge to sign.

In the body of the order after “appointment of”, enter the name of the person to be appointed as guardian.

Paragraph # 1 Check the first box if this is a general guardianship, and enter the guardian’s name and then in the next space, enter the minor’s name. Check the second box if there are limitations to the guardianship and then enter the guardian’s name, then in the next space, enter the minor’s name.

Paragraph # 3 List the names of anyone to whom the annual reports or accountings must be mailed to.

10. Letters of Guardianship, CAO 14-12

Complete all caption information as on the petition. All pleadings must have the petitioner’s name, address and phone number on the top left corner, the court district number and county name in the court caption, case number, and the minor’s name in the caption under “In the Matter of:” Bring this document to the hearing for the judge to sign.

In the body of the document on the first line, enter name of guardian. Leave the date space and check boxes blank for the judge to check off and sign.

Step 3: Make Copies and File With the Clerk

Make copies of all documents for your records and additional copies for anyone to whom you are required to give notice of the proceeding as described above. Take the originals and copies of the Petition for Appointment of Guardian of a Minor, CAO 14-1, Sworn Consent to Appointment, CAO 14-2, Nomination by Minor, CAO 14-3 (if minor is over 14 years old), Sworn Acceptance of Appointment by Guardian, CAO 14-9, and give the

clerk the Notice of Guardianship Petition and Hearing, CAO 14-5, Order Appointing Temporary Guardian, CAO 14-8, and Letters of Temporary Guardianship, CAO 14-10 (to be filed later), to the Clerk of the Court office for filing. Be sure to have all copies of documents that are filed conformed, which is the clerk's stamp in the top right corner. The filing fee for a Petition to Appoint a Guardian of a Minor is \$57, which must be paid at the time of filing.

Step 4: Contact the Judge's Clerk to schedule a hearing (In Ada County)

When you file the Petition for Appointment of Guardian of a Minor, CAO 14-1, Sworn Consent to Appointment, CAO 14-2, Nomination by Minor, CAO 14-3 (if minor is over 14 years old), Sworn Acceptance of Appointment by Guardian, CAO 14-9, give the clerk the Notice of Guardianship Petition and Hearing, CAO 14-5 to be filed later. The file will be sent to the judge for review. If the judge determines that your petition is proper and cause exists to have a hearing on the matter, the judge's clerk will schedule a hearing on your petition. If temporary guardianship is requested, the judge will sign the Order Appointing Temporary Guardian, CAO 14-8, and Letters of Temporary Guardianship, CAO 14-10. The clerk may call you to set a date or simply schedule the hearing and send you the copy of the Notice of Guardianship Petition and Hearing, CAO 14-5, and if applicable, the Order Appointing Temporary Guardian, CAO 14-8, and Letters of Temporary Guardianship, CAO 14-10.

Step 5: Attend the Hearing

On the day of the hearing, make sure you go to the correct courtroom. Dress appropriately and address the judge as "Your Honor." The judge will call the name and the number of your case. Go to the table for the Plaintiff or Petitioner. The judge may ask you questions. If testimony is required, then the clerk will swear you in and you will take a seat at the witness stand and give your testimony which is an outline of the things you asked for in the petition. If the judge has no further questions, you are finished. The judge will tell you if the guardianship will be granted and sign the order. The judge may also explain certain responsibilities of a guardian and give you a handbook with detailed information about your duties. If for some reason you cannot make your court date or if you will be late, call the judge's clerk to vacate the hearing and schedule a new court date. Notice must be given to all involved people of the rescheduled hearing as instructed in the Notice of Petition and Hearing section above. For additional information on what to expect in court, please refer to the Guidelines for Courtroom Behavior, CAO Instruction # 12.