

FILING FOR TERMINATION OF A GUARDIANSHIP OF A MINOR

CAO Instruction # 21

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: Contact the judge's clerk to schedule a hearing
- Step 5: Attend the Hearing

Step 1: Talk to An Attorney, If Possible

These instructions are not a substitute for legal advice. The laws and court rules are complex and following these instructions will not guarantee you a favorable result. It is always advisable to talk to a lawyer about your problem before filing your action. If you cannot afford to hire an attorney to represent you, you may be able to pay a lawyer to give you advice and review your paperwork for a lesser cost. Contact the Idaho State Bar Lawyer Referral Service (208-334-4500) for the name of an attorney in your area who will provide an initial consultation for no more than \$35. Also contact the Idaho State Bar or your Court Assistance Office for information about limited services representation. If you cannot afford these costs, there are also limited free legal services available to low income people. Contact the Court Assistance Office for their "Legal Services Directory" for information about resources for low-income people. Even if you do not hire a lawyer to represent you throughout the proceeding, a lawyer can look over your paperwork, give you advice on how to present your evidence, and tell you whether this type of action is right for you.

Step 2: Obtain and Complete the Required Forms

You will need to obtain and complete the following forms:

1. Petition for Termination of Guardianship, CAO 14-15
2. Notice of Petition and Hearing, CAO 14-16
3. Order Terminating Guardianship, CAO 14-18

Complete the forms listed above. These forms are applicable only for terminating a guardianship of a minor when all parties are consenting to the termination. 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:". 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. All forms must be typed. The court will not accept any hand written forms. There are typewriters available at the Boise Public Library, and the Court Assistance Office at the courthouse. Also, forms and instructions are available on line at the link at: www.adaweb.net/cao.

1. Petition for Termination of Guardianship, CAO 14-15

A. Body of petition:

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

Paragraph # 2 Check the box that is appropriate for your case and enter the needed information.

Paragraph # 3 List the name, address and relationship to the minor of those whom you are sending 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, any living parent of the minor, and anyone who would be affected by the termination of the guardianship.

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 Termination of Guardianship, CAO 14-15, and Notice of Hearing, CAO 14-16.

Sign and date the Petition and Verification section in front of a notary public. You can find a notary public at the courthouse. Make a copy of the Petition for Termination of Guardianship, CAO 14-15 for your records and one copy for each person that must be notified as described above.

2. Notice of Petition and Hearing, CAO 14-16

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. (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 Petition and Hearing, CAO 14-16.

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.

3. Order Terminating Guardianship, CAO 14-18

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, enter the name of the person who filed the Petition for Termination of Guardianship. Leave the date and signature line blank.

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 Termination of Guardianship, CAO 14-15 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.

Step 4: Contact the judge's clerk to schedule a hearing

After you file the Petition for Termination of Guardianship, CAO 14-15, contact the judge's clerk to schedule a hearing and send notice of the hearing to those who you are required to send notice.

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 terminated and sign the order.

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.