4-981. Petition for order appointing kinship guardian.

[Simplified petition, Kinship Guardianship Act, Sections 40-10B-1 to 40-10B-14 NMSA 1978]¹

C/TC A	TE OF	NIESSI NA	TWICO		
COU	NTY C	NEW M)F		TRICT	
			, Pe	titioner ²	
v.					No
			and	, Respondents ³	
			PETITION I	GUARDIANSHIP FOR ORDER APPOINTIN ISHIP GUARDIAN ⁵	4 G
1.	INF	ORMAT		HE PETITIONERS (the	persons filing this petition
	requ	esting to	be appointed to ser	rve as a Kinship guardian.)	
	A.	The []	petitioner is] [petition	oners are] are the child's ² :	
		[]	maternal [grandpa	arents] [grandparent] (child's	mother's parents);
		[]	paternal [grandpa	rents] [grandparent] (child's j	father's parents);
		[]	aunt;		
		[]	uncle;		
		[]	brother;		

	[]	sister;
	[]	a family member: (describe the family
		relationship);
	[]	an adult with whom the child has a significant bond:
		(describe the relationship)
B.	The 1	petitioner or petitioners reside at:
		(street address)
		(city, state, zip code)
		(telephone)
		(fax number, if any)
C.	Venu	ne is proper because the child or children reside in this county or this county is
	the le	egal residence of the child or children.
(Che	ck appl	icable alternative.)
D.	[]	The above named child has lived with the petitioner or petitioners for ninety
		(90) or more days immediately preceding the filing of this petition.
	[]	Each respondent has consented to the appointment of kinship guardians. The
		consent forms are attached to this petition.
E.	The j	petitioner or petitioners accept the duties and responsibilities of guardianship,
	inclu	ding providing for the care, maintenance and supervision of the child.
F.	The a	above child is not an Indian child and is not subject to provisions of the federal

Indian Child Welfare Act.⁵

2. REQUEST FOR COURT TO NAME PETITIONERS AS KINSHIP GUARDIANS OF A MINOR CHILD

The petitioners request the court to enter an order appoint	ting the [petitioner] [petitioners] as
[guardian] [guardians] of the following child of	⁷ (father) and
⁷ (mother), who are the responde	ents in this case: (List the name and
the date of birth of the child and each address of the chi	ld for the last five (5) years. Use a
separate sheet if necessary.) ⁸	
Name:(last	t name, first and middle)
Date of birth:	
Place of birth:	
Present address:	
	(street)
	(city)
	(state and zip code)
Next previous address:	
	(street)
	(city)
	(state and zip code)
Next previous address:	

		(street)			
		(city)			
		(state and zip code)			
INF	ORMA	TION ABOUT THE CHILD'S PARENTS			
A.	Info	rmation about mother:			
	(Che	ck each applicable statement.)			
	[]	(mother's name) is the mother of the child.			
		Her current address is (City, county and state			
		and zip code).			
	[]	The mother is living and has consented in writing to [my] [our] appointment			
		as kinship guardian. (Attach consent form signed by child's mother.)			
	[]	The mother is deceased. (Attach death certificate to this Petition.)			
	[]	The mother is living but her parental rights have been terminated by an			
		earlier court order. (Attach a copy of the court order to this Petition.)			
В.	Information about father:				
	(Che	ck each applicable statement.)			
	[]	(father's name) is the father of the child. His			
		current address is(City, county and state and			
		zip code).			
	[]	The father is living and has consented in writing to [my] [our] appointment			

3.

		as kinship guardian. (Attach consent form signed by child's father.)			
		[] The father is deceased. (Attach death certificate to this petition.)			
		[] The father is living but his parental rights have been terminated by an earlier			
		court order. (Attach a copy of the court order to this petition.)			
		[] Although the petitioner believes (name of alleged			
		father) of the child, he has not acknowledged that he is child's father.			
		[] The name of the father of the child is not known by the petitioners because:			
		(explain)			
4.	INFO	RMATION ABOUT OTHER CASES (complete if applicable)			
	A.	ollowing divorce, separation, order of protection, child support, paternity, abuse			
		or neglect ¹⁰ cases have been previously filed involving the above parents:			
		(complete if known)			
		Type of Case Year Filed Case Number Where Filed			
	В.	(Complete if applicable.) The following persons, other than the petitioner or			
		petitioners or the parents of the [child] [children], have or claim to have custody of			
		the [child] [children] or visitation rights to the [child] [children]:			
		(List names of each guardian, custodian or person with visitation rights and circle			
		applicable claim.)			

		(name) [guardian] [custody] [visitation](name) [guardian] [custody] [visitation]				
		(name) [custody] [visitation]				
CHILD OVER FOURTEEN (14) YEARS OF AGE OR MARRIED						
(complete if applicable)						
		(name of child) was born on(date of birth) an				
	at the time of the hearing on this petition will be at least fourteen (14) years of age.					
	(name of child):					
	(checi	k if applicable)				
	[]	has signed an affidavit nominating (name of person				
nominated) to be appointed as guardian. A copy of the signed nomination is						
		and made a part of this petition. ¹¹				
	[]	has been served with a copy of this petition and a copy of the nominating petition				
		but has failed or refused to sign the nomination form.				
	[]	is married.				
	[]	is not married.				
	CHILD SUPPORT					
(check applicable alternative)						
	[]	[I] [We] request that the court enter a child support order ordering				
		(name of parent or parents) to pay child support ¹² .				

[] [I] [We] do not requ	uest child support.			
STATE OF NEW MEXICO)) sc			
COUNTY OF) ss)			
The [petitioner was sworn a	and states] [petitioners were sworn and state]: [I] [W	e] have read		
this petitioner and it is true to the be	est of [my] [our] knowledge and belief. [I] [We] und	lerstand that		
[I] [We] can be punished both civil	lly and criminally if any information in this petition	ı is false.		
Date	Signature of Petitioner			
	Signature of Petitioner			
Signed and sworn before m	ne on this,			
Notary public				
My commission expires:				

USE NOTES

1. Civil Forms 4-981 to 4-991 NMRA may be used in the district courts of this State by persons who are representing themselves in uncontested kinship guardianship proceedings. Civil Forms 4-981 to 4-991 NMRA are not required to be used. Parties represented by an attorney may use other forms that serve the same purpose.

- 2. The petitioner must be a spouse, parent, stepparent, godparent, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin or any person denoted by the prefix "grand" or "great", the spouse or former spouse of the child or an adult with whom the child has a significant bond. *See* Section 40-10B-5 NMSA 1978 for persons who may file as a petitioner pursuant to the Kinship Guardianship Act.
- 3. Unless the child's parent is deceased or the parent's parental rights have been terminated, the parent must be joined as a respondent. This petition must be served on each parent of the child in the manner provided by Rule 1-004 NMRA for personal service to Rule 1-004 NMRA, unless:
 - (a) a consent form has been signed by the parent;
 - (b) the parent is deceased and a death certificate is attached to this petition at the time it is filed;
 - (c) the parent's rights as a parent have been terminated by a court order and a copy of the order is attached to this petition at the time it is filed.

Civil Form 4-982 NMRA, "Kinship Guardianship Summons" has been provided for use with this petition.

- 4. Insert the name or the initials of the minor child and the child's birthdate. This form may be modified to include additional minor children. The name of a child shall not be made available to the public on the internet.
- 5. This form cannot be used without revision if the child is an Indian child. In these cases, the form of the petition and the manner of notice must comply with federal law. The Indian Child Welfare Act, 25 U.S.C. Section 1901 et seq., defines "Indian child" as follows:

"Indian child" means any unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

(25 U.S.C. Section 1903(4)). If the child is enrolled or is eligible for enrollment in an Indian tribe, the form of the petition and the manner of the notice must comply with federal law. The parent or Indian custodian of an Indian child may have the right to have the child returned upon demand as may be determined by tribal law or custom.

6. See Forms 4-985 or Form 4-986 NMRA for parental consent forms.

- 7. If the parent is deceased, insert "deceased" instead of address and check the "deceased" box. A copy of the death certificate must be attached to this petition.
- 8. Section 40-10A-209 NMSA 1978 of the Uniform Child-Custody Jurisdiction Enforcement Act requires the first pleading of every custody action to give information under oath as to the child's present address, the places where the child has lived within the last (five) 5 years and the names and present addresses of the persons with whom the child has lived during that period.
- 9. Attach a copy of each parent's Verified Parental Consent to Appointment of Guardian and Waiver of Service of Process to this petition. *See* Civil Forms 4-985 and 4-986 NMRA.
- 10. If an abuse or neglect or other proceeding has been filed by the Children, Youth and Families Department, that department must file a consent to the appointment of petitioners as Kinship Guardians. Attach a copy of such consent to this petition.
- 11. If the child is fourteen (14) years of age or older, the child must be served with a copy of this Petition or a copy of the Nomination of Guardian Form, Civil Form 4-983 NMRA, must be attached to this Petition at the time it is filed.
- 12. The child's mother may be ordered to pay child support. The respondent named as the child's father may be ordered to pay child support if the respondent father has admitted paternity or paternity has been established by another proceeding. *See* Civil Forms 4A-331 and 4A-332 NMRA for a petition to establish paternity and a final decree of paternity.

[Provisionally approved, effective August 15, 2003 until August 31, 2004; approved effective January 20, 2005.]