

INSTRUCTIONS AND REQUIREMENTS FOR TEMPORARY GUARDIANSHIP PETITIONS

The following instructions apply to all Temporary Guardianship Petitions filed in Cherokee County:

Documentation

All Petitions for Temporary Guardianship **MUST** be accompanied by a certified copy of the minor child's birth certificate. Any birth certificate which is issued in a language other than English must be accompanied by a certified translation.

For multiple children with the **SAME** parents, a single Petition may be used.

The "Petitioner" is the party seeking to be appointed Temporary Guardian. The "Ward" is the minor child over whom a Temporary Guardianship is sought.

Additional Forms

The Petitioner and the surrendering parent must complete both the standard form and all additional forms required by this Court. These additional forms are attached to the Petition. Failure to complete all forms may result in the Petition being rejected.

The "Consent to Criminal Background Check" must be completed by **every** adult member of the Petitioner's household.

Notice to Parents

It is the policy of this Court to provide notice of any Petition for Temporary Guardianship to the non-consenting parent, biological or otherwise. Therefore, the Petitioner **MUST** provide this Court with the non-consenting parent's name and address. If it is alleged that the name of this parent is unknown or their address is unknown, the Petitioner **MUST** show the Court that they have made a diligent effort to locate this parent. Failure to provide this information may result in the Petition being rejected.

Legal Assistance

A Petitioner for Temporary Guardianship is not required to retain an attorney to assist them with this process. However, the staff of the Cherokee County Probate Court may not provide the Petitioner with legal advice or assist the Petitioner with completing the Temporary Guardianship forms. In the event that the Petitioner needs assistance, they should contact an attorney.

Fees

Each Petition for Temporary Guardianship presented must be accompanied by the appropriate filing fees, service fees (if applicable) and publication costs (if applicable). The Clerk reviewing your Petition will provide you with the amount of fees due at the time the Petition is filed.

Appointments for Filing

In order to better serve the public, it is requested that the Petitioner, after completing all paperwork, contact the Probate Court to schedule an appointment for filing their petition. If the petition is brought in without an appointment, there may be a delay in filing it. The phone number for the Probate Court is (678) 493-6160.

PETITION FOR TEMPORARY LETTERS OF GUARDIANSHIP OF MINOR
INSTRUCTIONS

I. Specific Instructions

1. This form is to be used for filing a Petition for Temporary Letters of Guardianship of a Minor pursuant to O.C.G.A. § 29-2-5.
2. Notice of the Petition must be given to the “parents” of the Minor. If an objection to the establishment of the temporary guardianship is filed by a parent who is also a “natural guardian,” the Court will dismiss the Petition without a hearing. If a parent who is not a natural guardian objects, a hearing on the matter will be scheduled.

A “parent” is defined as the biological or adoptive father or mother whose parental rights have not been surrendered or terminated. However, in the case of a child born out of wedlock, the Father shall be considered a “parent” only if he has legitimated the Minor.

A father of a child born out of wedlock has legitimated the Minor if he married the Mother after the child’s birth or obtained an order of legitimation from a court of competent jurisdiction.

A “natural guardian” is defined as each parent, unless the parents are divorced. If one parent has sole legal custody, that parent is the sole “natural guardian.” If both parents have joint legal custody, then both parents are the “natural guardians.”

3. Although a mother or father may not be a “legal parent,” the Court may require service on such person.
4. A temporary guardianship will be deemed to be a permanent guardianship for the purposes of obtaining medical insurance coverage for the Minor if the guardian assumes in writing the obligation to support the Minor while the guardianship is in effect to the extent that no other sources of support are available.
5. Unless otherwise permitted by the Probate Court in which the Petition is filed, a separate Petition must be filed for each minor. Contact the Probate Court in which the Petition will be filed for its policy. If the filing of one Petition for more than one minor is permitted by the Probate Court, modify the Petition accordingly.
6. According to Uniform Probate Court Rule 5.6 (A), unless the Court specifically assumes the responsibility, it is the responsibility of the moving party to prepare the proper citation and deliver it properly so it can be served according to law. All pages after the Notice regarding Uniform Probate Court Rule 5.6 (A) are to be completed by the moving party, unless otherwise directed by the Court.

7. O.C.G.A. § 53-11-2 provides that a party to a probate proceeding who is not sui juris must be represented by a guardian provided that the Court may appoint a guardian ad litem or determine that the natural guardian, guardian, conservator or testamentary guardian has no conflict and may serve. Should a guardian ad litem be necessary because a party is not sui juris, use Supplement 1.
8. Use Supplement 2 if the Court determines it is necessary to appoint a special process server.
9. Use Supplement 3 when an additional certificate of service is necessary.
10. Exhibits should be labeled at the bottom of each exhibit as Exhibit "A," Exhibit "B," etc. in consecutive order. The corresponding letter of each said exhibit should be inserted into the appropriate place in the form.
11. An oath must be administered by a Probate Judge or Clerk [the oath cannot be administered by a notary]. Use Probate Court Standard Form 35 for the oath. The oath is not included in this form.

II. General Instructions

General instructions applicable to all Georgia Probate Court Standard Forms are available in each Probate Court, labeled GPCSF 1.

**Cherokee County Probate Court
Pro Se Applicants Information Form**

If you are filing without an attorney, this information is required.

The following information is for office use to be able to reach you concerning the case and will not be maintained in the public file.

Petitioner name: _____

Petitioner address: _____

Petitioner phone number: _____

Petitioner work number: _____

Petitioner e-mail address: _____

Petitioner cell phone number: _____

Please list second petitioner if any:

Petitioner name: _____

Petitioner address: _____

Petitioner phone number: _____

Petitioner work number: _____

Petitioner e-mail address: _____

Petitioner cell phone number: _____

Please list below a friend, neighbor, or relative that can be contacted if you can not be located.

Name: _____

Address: _____

Phone number: _____

Fax number: _____

E-mail address: _____

Cell phone number: _____

**IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA**

IN RE: ESTATE OF _____)
 _____)
 _____) **ESTATE NO.** _____)
MINOR _____)

PETITION FOR TEMPORARY GUARDIANSHIP OF A MINOR

The Petition of:

[Full name of Petitioner(s)] First Middle Last

who is/are domiciled in _____ County and reside(s) at the following address(es):

Street City County State Zip Code

who has/have actual physical custody of the Minor named above, and whose mailing address(es)

is/are _____
Street City County State Zip Code

show(s):

1.

[Full name of Minor] First Middle Last

age _____, whose date of birth is _____, is found at: _____

Street City County State Zip Code

2.

A copy of the Minor's birth certificate is attached as Exhibit "_____."

3.

Said Minor is in need of a temporary guardian. The Petitioner(s) has/have the following relationship(s) with the Minor: _____.

4.

The Minor's Mother is:

<i>[Full name of Mother]</i>	<i>First</i>	<i>Middle</i>	<i>Last</i>
------------------------------	--------------	---------------	-------------

<i>Street</i>	<i>City</i>	<i>County</i>	<i>State</i>	<i>Zip Code</i>
---------------	-------------	---------------	--------------	-----------------

- a. Is the Mother deceased? *[Circle One]* (Yes) (No)
If yes, attach death certificate as Exhibit “ ____ ”
and skip b-g.
- b. Has the Mother signed an acknowledgement for the creation of this temporary guardianship? *[Circle One]* (Yes) (No)
If yes, attach Acknowledgement as Exhibit “ ____.”
- c. Is the Mother's address known and listed above? *[Circle One]* (Yes) (No)
- d. Have the Mother's rights been terminated via Court Order? *[Circle One]* (Yes) (No)
If yes, attach the Order as Exhibit “ ____.”
- e. Has the Mother lost custody via Court Order? *[Circle One]* (Yes) (No)
If yes, attach the Order as Exhibit “ ____.”
- f. Does the Mother have joint legal custody via Court Order? *[Circle One]* (Yes) (No)
If yes, attach the Order as Exhibit “ ____.”
- g. Does the Mother have sole legal custody via Court Order? *[Circle One]* (Yes) (No)
If yes, attach the Order as Exhibit “ ____.”
- h. Was the Mother married to the Father of the child during or after the conception of the Child? *[Circle One]* (Yes) (No)
- i. Was the Mother married to another during the conception, gestation or birth of the Child? *[Circle One]* (Yes) (No)
If yes, list that man's name below:

[Full name of Mother's Husband] First Middle Last

Street City County State Zip Code

5.

The Minor's Father is:

[Full name of Father] First Middle Last

Street City County State Zip Code

- a. Is the Father deceased? *[Circle One]* (Yes) (No)
If yes, attach death certificate as Exhibit " ____ " and skip b-g.
- b. Has the Father signed an acknowledgement for the creation of this temporary guardianship? *[Circle One]* (Yes) (No)
If yes, attach Acknowledgement as Exhibit " ____."
- c. Is the Father's address known and listed above? *[Circle One]* (Yes) (No)
- d. Have the Father's rights been terminated via Court Order? *[Circle One]* (Yes) (No)
If yes, attach the Order as Exhibit " ____."
- e. Has the Father lost custody via Court Order? *[Circle One]* (Yes) (No)
If yes, attach the Order as Exhibit " ____."
- f. Does the Father have joint legal custody via Court Order? *[Circle One]* (Yes) (No)
If yes, attach the Order as Exhibit " ____."
- g. Does the Father have sole legal custody via Court Order? *[Circle One]* (Yes) (No)
If yes, attach the Order as Exhibit " ____."

6.

Is the Minor fourteen years of age or older? *[Circle One]* (Yes) (No)

If you answer "Yes," and the Minor made a selection, attach the Minor's Selection for the Petitioner(s) to act as temporary guardian(s) as Exhibit " ____."

7.

The temporary guardianship is needed because:

8.

Additional Data: *[Where full particulars are lacking, state here the reasons for any such omission. Also, state here all pertinent facts that may govern the method of giving notice to any party and that may determine whether or not a guardian ad litem should be appointed for any party.]*

WHEREFORE, Petitioner(s) pray(s) that:

1. Service be perfected as provided by law; and
2. Petitioner(s) be appointed temporary guardian(s) of the Minor named above.

Signature of First Petitioner

Signature of Second Petitioner, if any

Printed Name

Printed Name

Mailing Address

Mailing Address

Telephone Number

Telephone Number

Signature of Attorney

Printed Name of Attorney

Address

Telephone Number

State Bar #

VERIFICATION

GEORGIA, _____ COUNTY

Personally appeared before me the undersigned Petitioner(s) who, after being duly sworn, state(s) that the facts set forth in the foregoing Petition and the attached Exhibit(s) are true and correct.

Sworn to and subscribed before
me this _____ day of _____, 20____.

Signature of First Petitioner

NOTARY/CLERK OF PROBATE COURT
My Commission Expires _____

Printed Name of First Petitioner

Sworn to and subscribed before
me this _____ day of _____, 20____.

Signature of Second Petitioner, if any

NOTARY/CLERK OF PROBATE COURT
My Commission Expires _____

Printed Name of Second Petitioner, if any

**IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA**

IN RE: ESTATE OF _____)
)
) **ESTATE NO.** _____
)
 _____,)
 MINOR)

SELECTION BY MINOR IF AGED 14 OR OLDER

I, the undersigned Minor, being 14 years of age or older and a resident of _____ County, select _____
to be appointed my guardian(s).

This _____ day of _____, 20 _____.

Sworn to and subscribed before me this
_____ day of _____, 20 _____.

Signature of Minor if age 14 or over

NOTARY/CLERK OF PROBATE COURT
My Commission Expires _____

Printed Name

Exhibit "____"

**IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA**

IN RE: ESTATE OF _____)
 _____)
 _____) **ESTATE NO.** _____)
MINOR _____)

ACKNOWLEDGMENT OF MOTHER

I, _____
[Full name of Mother] First Middle Last

Street City County State Zip Code
 Mother of the above named Minor, do hereby consent to the creation of a temporary guardianship and the appointment of *[list all parties to whom you wish to grant temporary guardianship]*:

[Full name of first Temporary Guardian] First Middle Last

[Full name of second Temporary Guardian] First Middle Last

and also acknowledge service of the Petition for Appointment of a Temporary Guardian for said Minor and waive any and all further service and notice concerning said Petition.

I further understand that, pursuant to O.C.G.A. § 29-2-8 (b), upon a petition for termination by a natural guardian as defined in said statute *[see instructions]*, the Court will remove the Temporary Guardian(s) and dissolve the temporary guardianship unless an objection is timely filed by the appointed Temporary Guardian(s). If an objection is timely filed to such petition for termination, the Juvenile Court or the Probate Court shall determine, after notice and hearing, whether a continuation or dissolution of the temporary guardianship is in the best interest of the Minor. I understand that nothing herein, including any optional Assumption by the Guardian(s) of the obligation to support the Minor to the extent that no other sources of support are available, affects my legal obligation to support and maintain said Minor.

Sworn to and subscribed before me this
 ____ day of _____, 20 ____.

 Signature of Mother

 NOTARY/CLERK OF PROBATE COURT
 My Commission Expires _____

 Printed Name of Mother

Exhibit “ _____ ”

**IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA**

IN RE: ESTATE OF _____)
)
_____,) **ESTATE NO.** _____
MINOR)

ACKNOWLEDGMENT OF FATHER

I, _____
[Full name of Father] First Middle Last

Street City County State Zip Code
Father of the above named Minor, do hereby consent to the creation of a temporary guardianship and the appointment of *[list all parties to whom you wish to grant temporary guardianship]*:

[Full name of first Temporary Guardian] First Middle Last

[Full name of second Temporary Guardian] First Middle Last

and also acknowledge service of the Petition for Appointment of a Temporary Guardian for said Minor and waive any and all further service and notice concerning said Petition.

I further understand that, pursuant to O.C.G.A. § 29-2-8 (b), upon a petition for termination by a natural guardian as defined in said statute *[see instructions]*, the Court will remove the Temporary Guardian(s) and dissolve the temporary guardianship unless an objection is timely filed by the appointed Temporary Guardian(s). If an objection is timely filed to such petition for termination, the Juvenile Court or the Probate Court shall determine, after notice and hearing, whether a continuation or dissolution of the temporary guardianship is in the best interest of the Minor. I understand that nothing herein, including any optional Assumption by the Guardian(s) of the obligation to support the Minor to the extent that no other sources of support are available, affects my legal obligation to support and maintain said Minor.

Sworn to and subscribed before me this
_____ day of _____, 20____.

Signature of Father

NOTARY/CLERK OF PROBATE COURT
My Commission Expires _____

Printed Name of Father

Exhibit "____"

**IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA**

IN RE: ESTATE OF _____)
)
) **ESTATE NO.** _____
MINOR)

ASSUMPTION OF OBLIGATION TO SUPPORT (OPTIONAL)

The undersigned, if appointed temporary guardian(s) of the above named Minor, assume(s) the obligation to support the Minor while the guardianship is in effect to the extent that no other sources of support are available.

Sworn to and subscribed before
me this _____ day of _____, 20__.

Signature of First Petitioner

NOTARY/CLERK OF PROBATE COURT
My Commission Expires _____

Printed Name of First Petitioner

Sworn to and subscribed before
me this _____ day of _____, 20__.

Signature of Second Petitioner, if any

NOTARY/CLERK OF PROBATE COURT
My Commission Expires _____

Printed Name of Second Petitioner, if any

Exhibit “ _____ ”

CONSENT TO CRIMINAL BACKGROUND CHECK

In conjunction with the legal action filed in that Court, I hereby authorize the Probate Court of Cherokee County to ask for and receive any criminal history record information pertaining to me which may be in the files of any state or local criminal justice agency in Georgia, in any state or local criminal justice agency in any state in the United States or its territories, and in the Federal Bureau of Investigation. I further authorize this Court to provide a copy of the record, where deemed appropriate, to the Cherokee Juvenile Court or such other appropriate law enforcement agency.

Since reaching age eighteen, I have resided in the following states, or territories:

Name of State or Territory

Years Resided There

Full Name Printed

Address Printed

Criminal History Identifiers and Eliminators

This information is in addition to that given in other parts of the application and is for the purpose of distinguishing the guardianship applicant from other persons whose criminal records may appear based on similar names, birth dates, and Social Security numbers.

Height: _____

Weight: _____

Hair Color: _____

Eye Color: _____

Date of Birth: _____

All previous names: alias, nicknames, maiden, etc. _____

City, State or Province, Country where born: _____

Signed and sworn to or affirmed before me
this _____ day of _____, 20__.

Signature

Clerk of Probate Court/ Notary Public

Name Printed: _____

My Commission Expires: _____

(SEAL)

**TEMPORARY GUARDIANSHIP PETITION APPLICATION:
GUARDIAN INFORMATION**

NOTICE:

The temporary guardian is at all times subject to the jurisdiction of this Court and must comply with State law, including as to filing status reports and advising of change of location of both themselves and the ward.

For that reason, the purpose of the information requested in this section is not only to verify, identify and determine whether it is appropriate that the temporary guardianship be granted, but also to enable the Court to have the temporary guardian, and/or the ward tracked through State agencies, including Law Enforcement in the event issues arise with the temporary guardianship.

Guardian Information

1. Temporary Guardian's Full Name _____
- Address _____ City _____
- State _____ County _____ Zip _____
- Home Phone _____ Other Phone _____
- Marital Status _____ Race _____
- U.S. Citizen Yes No* If no, what country? _____
- Place of Employment _____ Number of years: _____
- Supervisor's Name _____

* If you are not a U.S. citizen, you must produce a copy of your Permanent Residency Card and other information as separately requested by the Court. If you are not a legal permanent resident, you can not be monitored properly by the Court and therefore you can not be approved as a guardian.

2. Spouse's Full Name _____
- Address _____ City _____
- State _____ County _____ Zip _____
- Home Phone _____ Other Phone _____

Race _____

U.S. Citizen Yes No* If no, what country? _____

Place of Employment _____ Number of years: _____

Supervisor's Name _____

*** If you are not a U.S. citizen, you must produce a copy of your Permanent Residency Card and other information as separately requested by the Court. If you are not a legal permanent resident, you can not be monitored properly by the Court and therefore you can not be approved as a guardian.**

3. Relationship (if any) to ward _____

If not related, how do you know the ward? _____

4. Has temporary guardian ever been arrested? If so, when, where and for what were you arrested? What was the outcome of the arrest?

5. Has the temporary guardian ever been investigated by Department of Family and Children Services, Adult Protective Services or any other similar agency? If so, provide a detailed description of the reason for the investigation and the outcome of the investigation.

6. If temporary guardian lived outside Cherokee County during last ten (10) years, list addresses: _____

7. List three (3) personal references, addresses and phone numbers, (other than relatives):

8. REASON FOR GUARDIANSHIP; EXPLAIN FULLY:

9. Who referred you to the Probate Court for guardianship? If a member of the staff of a Department of Family and Children Services or Adult Protective Services, give the County that Department is in and the name of the staff member(s):

**TEMPORARY GUARDIANSHIP PETITION APPLICATION:
PARENTS' INFORMATION**

NOTICE:

The Ward is at all times subject to the jurisdiction of this Court and the parents of the Ward continue to be subject to this court's jurisdiction since their parental duties may be reinstated by the Court without notice. Therefore, the parents must keep the Court apprised of their location or risk having their minor children placed with the Department of Family and Children Services if they cannot be located..

Parents' Information

1. Mother's Full Name _____

Address _____ City _____

State _____ County _____ Zip _____

Home Phone _____ Other Phone _____

Marital Status _____ Race _____

U.S. Citizen Yes _____ No _____ If no, what country? _____

Place of Employment _____ Number of years: _____

Supervisor's Name _____

2. Father's Full Name _____

Address _____ City _____

State _____ County _____ Zip _____

Home Phone _____ Other Phone _____

Marital Status _____ Race _____

U.S. Citizen Yes _____ No _____ If no, what country? _____

Place of Employment _____ Number of years: _____

Supervisor's Name _____

Information on Ward

1. Ward's Name _____
Birth Date _____ Sex _____ Race _____
U.S. Citizen Yes No If no, what country? _____
2. Education
School last attended _____ Grade _____
Plans to attend _____ School _____
Is this a City or a County School? _____
3. Names and ages of children in Temporary Guardian's home at the present time

4. Has the child ever been in foster home, removed from parental custody, or investigated by the Department of Family and Children Services? If yes, give details:

5. Has the child ever been arrested or charged with a delinquent act? If so, when, where, and for what offense?

