

GUARDIANSHIP OF A MINOR

2

Get a Permanent Appointment for a Minor

Part 2: Service and Notice
of the Court Hearing
(Instructions Packet)

SELF-SERVICE CENTER

FOR APPOINTMENT OF A GUARDIAN FOR A MINOR

PART 2: Service and Notice

(Instructions Only)

This packet contains court forms and instructions to file for an appointment of a guardian for a minor. Items in **BOLD** are forms that you will need to file with the Court. Non-bold items are instructions or procedures. Do not copy or file those pages!

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INFORMATION ON LEGAL NOTICE FOR GUARDIANSHIP OF A MINOR

- 1. WHAT IS LEGAL NOTICE:** After you have completed **AND** filed the guardianship Petition, other court papers and “Certificate of Readiness (Request to Set Hearing)” with the Court, **AND** after you have received an “Order and Notice of Hearing” from the Court, you must tell **all** “interested persons” about the papers and Court hearing.

A. WHAT COURT DOCUMENTS DO I NEED TO GIVE NOTICE ABOUT?

- **The PETITION:** This document explains what you want the Judge/Commissioner to do and why.
- **ORDER AND NOTICE OF HEARING:** This document provides information about the hearing, including the date, location, and the name of the Judge/Commissioner who will hear the case.

It is recommended that you give people entitled to notice copies of **all** documents you filed with the court. After giving notice to those persons, you must then file a “PROOF OF NOTICE” listing the name of each person given notice and the title of each of the documents you provided. See Section “C” below for further information.

B. WHAT ARE THE WAYS TO GIVE LEGAL NOTICE?

- **“Personal Service”** means giving formal notice to the person required to be given notice in one of three ways:
 1. Papers are served by the Sheriff’s Department; or
 2. Papers are served by a registered, private process server; or
 3. The person receiving the papers *voluntarily* signs an “Acceptance of Service” in front of a Notary, and returns the form to you, or files it with the Court.
- When personal service is required, it means the law is written to make sure that a person who needs notice of a case is given that notice.
See **Step 4** for instructions on how to give personal service.

Mail or hand delivery is a less formal but important way of giving notice to other persons in some cases. When you are required to give notice by mail, 1st class postage-prepaid mail is usually acceptable. Other method provided by the U.S. Postal Service that provide proof of delivery, such as certified or registered mail with return receipt, Signature or Delivery Confirmation, provide proof that you posted the notice and that the person received the notice. .

- **Publication of Notice** is permitted as a last resort when you do not know the address of the person to whom you need to give notice. The Court will only permit notice by publication after you have made every reasonable effort to locate the person who is entitled to notice, and you prove to the Court’s satisfaction that you did everything you could to try to find the person or the person’s address. Then, you must publish the Notice at least **3 times** in a newspaper in the county where the Court hearing is held. See ARS § 14-1401(A)(3).

C. HOW DO I SHOW THAT I GAVE LEGAL NOTICE?

- **PROOF OF NOTICE** is the document you sign and file with the Court to prove you gave notice to **all** interested persons, and how you did it. You must fill out this form after you have served the documents on all interested persons (**See Step 1A**).

There are other documents that go with the PROOF OF NOTICE to show that service was made. These documents may include the following:

- 1) "AFFIDAVIT OF PUBLICATION",
- 2) "AFFIDAVIT OF SERVICE" signed by the process server or sheriff, **OR**
- 3) "ACCEPTANCE OF SERVICE".

D. WHEN CAN YOU SKIP GIVING LEGAL NOTICE?

- When a party required to be given notice signs a WAIVER OF NOTICE. Generally, a person required to be **personally served** can accept service by signing an ACCEPTANCE OF SERVICE and WAIVER OF NOTICE. However, if the Minor who needs the guardian signs the ACCEPTANCE AND WAIVER, that minor must also attend the hearing or service is not good, **OR**
- When a Party entitled to notice is present at the hearing and will accept service. Only rely on this method if you are **absolutely** certain the person will be at the hearing and will accept service.

2. WHO IS ENTITLED TO LEGAL NOTICE: Arizona law (ARS 14-5207) requires that notice regarding guardianship of a minor must be given to:

- The Minor, if 14 years or older;
- The person who has had the principal care and custody of the Minor during the **60 days** preceding the date of the Petition; **AND**
- Any living parent of the minor.

Note: You may give notice by **mail**, **hand-delivery**, or if all else fails, by publication to all those persons listed above.

3. TIME FRAMES TO GIVE LEGAL NOTICE: Generally, you must give **all** interested persons notice of the court papers at least **14 days** before the hearing. If you are giving NOTICE BY PUBLICATION, the first publication must be at least **14 days** before the hearing.

Note: .The newspaper will not provide the AFFIDAVIT OF PUBLICATION to you until all 3 required notices have been published.

4. THE METHODS OF PERSONAL SERVICE: There are several ways to give personal service that will be accepted by the Court.

- **Acceptance of Service:** The person must sign the acceptance form in front of a notary and return it to you, but the signature date cannot be earlier than the date you filed the court papers. The signature on this form does **not** mean the person agrees with the papers. It only means that he or she admits receiving the papers, without being served in person by a Sheriff or Process Server.
- **Process Server:** You generally must pay this person or company to do this for you. A process server will give the papers to the person at home, work, or other location. The process server will give the Court a sworn Affidavit stating that the person was served. The disadvantage of this method is the cost and that it requires the process server to find the person. If you decide to use this method, look under "PROCESS SERVER" in the Yellow Pages to find someone who can serve your papers.
 - **Sheriff:** This method requires you to contact the Sheriff's Office in the County where the person lives to arrange for a Sheriff's deputy to serve the papers. This method requires

you to pay a fee to the Sheriff's office, unless you receive a Waiver or Deferral, which is available through the Court for persons who cannot afford the cost of Service. The Waiver or Deferral will require you to explain to the Sheriff why your circumstances call for this method.

5. **WHAT ELSE TO KNOW ABOUT LEGAL NOTICE:** Even if you are required to **personally serve** some persons, you may still have to give notice by **mail** or **hand-delivery** to other interested persons. You will still have to sign and file the "PROOF OF NOTICE" to show the Judge/Commissioner that you gave notice to everyone as required by law.
6. **HOW DOES A PERSON WHO GETS NOTICE OBJECT TO THE PETITION:** Sometimes a person, including the minor who is 14 years or older wants to object to the Petition, or tell the Judge/Commissioner something besides what is in the Petition. For more information on objecting to a court process, see the Self Service Center's Guardianship Packet 3 called ***To Object to a Court Proceeding***, which includes Court forms and instructions to file a written Response. Unless deferred or waived by the Court, a fee will be charged for filing any objection or response.
7. **COMPLETE THE NOTICE OF HEARING AND PROOF OF NOTICE:** After Notice has been given, you must complete the "PROOF OF NOTICE" form. Be sure to list the title of any documents given, and the names of the persons to whom you gave the copies. Also list the date you gave each person copies, how they were served (delivered), and the relationship between the person to whom you gave copies and the Minor). If the Minor has an attorney, be sure the attorney receives copies also.

Make **3 copies** of the "ORDER AND NOTICE OF HEARING", the "PROOF OF NOTICE", the "ACCEPTANCE OF SERVICE and WAIVER OF NOTICE" (if any), and assemble them in **3 packets**: one set of originals and two complete sets of copies.

8. **FILE THE NOTICE OF HEARING, ANY WAIVER, AND PROOF OF NOTICE:**
 - A. **PREPARE TO FILE:** At least **10 business days** before the scheduled hearing date, file the original of the following with the Clerk of the Court, Juvenile Division:
 - "ORDER AND NOTICE OF HEARING",
 - "PROOF OF NOTICE" OF HEARING FOR GUARDIANSHIP OF A MINOR, **AND**
 - "ACCEPTANCE OF SERVICE" (and WAIVER OF NOTICE)(if applicable).
 - B. **TAKE YOUR PAPERS TO THE CLERK:** The **original will be kept by the Clerk and 1 copy** of the "NOTICE OF HEARING", "PROOF OF NOTICE" and "ACCEPTANCE OF SERVICE" (and WAIVER OF NOTICE) (if any) will be returned to you. .

Note: Keep a copy of each document for your records. Bring them with you to the court hearing.

NEXT STEP: Prepare for the court hearing and get the rest of the paperwork in order. If you still have questions, you can ask a lawyer for legal advice. You can look up a lawyer in the telephone book under "attorneys." Also, the Self-Service Center has a list of lawyers who will, for a fee, help you help yourself. The list shows where the lawyers are located, how much they charge per hour, and what their experience is.

All forms referred to in these instructions are available at the Self-Service Center or on the web.

SELF-SERVICE CENTER

PROCEDURES: HOW TO SERVE LEGAL PAPERS – ACCEPTANCE OF PERSONAL SERVICE REGARDING GUARDIANSHIP OF A MINOR

(The person being served cannot sign an ACCEPTANCE OF SERVICE until after you have filed your court papers.)

STEP 1 ASK THE PERSON TO ACCEPT SERVICE OF THE PAPERS:

A. IF THE PERSON BEING SERVED GOES WITH YOU TO THE FILING COUNTER:

- Give the other person his or her set of copies.
- Stay at the counter with that person.
- The person must have valid picture identification with him or her to sign the original ACCEPTANCE OF SERVICE and (optional) WAIVER OF NOTICE. The person must then sign the Acceptance and (optionally) the Waiver of Notice in front of the Clerk, which the Clerk will notarize for **free**, **OR**

B. IF THE PERSON CANNOT OR WILL NOT GO WITH YOU TO FILE PAPERS:

- Arrange a meeting place and time with the person before a Notary Public. Remind the person being served to bring valid picture identification with him or her to the Notary Public.
- Give the person his or her set of copies.
- Have the original of the court papers with you in case the person wants you to prove that you have it,
- The person must then sign the Acceptance of Service and (optionally) the Waiver of Notice) in front of the Notary Public, **OR**

C. IF YOU CANNOT GIVE THE PERSON THE PAPERS BY HAND:

- Mail **all** the copies to the person with an explanation, such as the form letter attached.
- The person must sign and date the original Acceptance (and Waiver of Notice).
- A Notary Public must witness the signature.
- The person signing must send the signed, notarized document back to you.
- You should write the date the person signed the Acceptance on your copy.

NOTE: If the person will not voluntarily send back the Acceptance of Service (and Waiver of Notice), ask him or her again to send it back. If he or she still does not send it back, **then you have to serve him or her by one of the other processes.**

STEP 2 FILE THE ACCEPTANCE OF SERVICE AT THE COURT:

A. FILING THE PAPERS:

- Go back to the Clerk of the Court where you filed your original court papers and file the **original** of the ACCEPTANCE OF SERVICE (and WAIVER OF NOTICE) with the notarized signature of the person to whom you gave notice.
- Give the Clerk the **originals** of the following documents:
 - 1) **NOTICE OF HEARING**
 - 2) **ACCEPTANCE OF SERVICE (and WAIVER OF NOTICE)**, if person signed one

DO NOT BRING CHILDREN TO COURT (unless it's "the Minor" named in the case).

(YOUR NAME)

(ADDRESS)

(CITY/STATE/ZIP CODE)

(TELEPHONE NUMBER)

(DATE)

(PERSON'S NAME)

(ADDRESS)

(CITY/STATE/ZIP)

Re: Acceptance of Court Papers

Dear _____
(NAME)

Case Number: **JG** _____

I have filed court papers for **Permanent Appointment of a Guardian of a Minor**. The Minor (or Minors) is (are):

Enclosed is a copy of the following papers for you: (WARNING: documents listed should include *at least* a Petition on whatever matter is before the court, and Notice of Hearing on the Petition. **CHECK THE BOXES TO INDICATE WHICH PAPERS YOU ARE SENDING**. Describe any other non-listed Court documents included).

- “Petition for Permanent Appointment of Guardian of a Minor”***
- “Affidavit of Person to be Appointed as Guardian”***
- “Consent of Parent to Guardianship (and Waiver of Notice)”***
- “Petition for Termination of Guardianship of a Minor”***
- OTHER** (List Title of) Document: _____

I have also enclosed an ***“Acceptance of Service (and Waiver of Notice)”***, which I would like you to sign in front of a Notary Public and return to me in the self-addressed stamped envelope. **Signing the Acceptance does not affect your right to file an objection or to appear in court to object to all or part of what is contained in the Petition or other papers filed with the Court.**

You may (optionally) also check the box for “Waiver of Notice” if you do not wish to receive copies of all papers filed in this case in the future.

If you choose not to sign and return the Acceptance, Arizona law allows for you to be charged for the cost of serving by other methods.

If you disagree with what is in the Petition, you can file a written Objection and/or you may also come to the court hearing and tell the Judge what you think about the Petition.

Sincerely,

(YOUR SIGNATURE)

Enclosures

SELF-SERVICE CENTER

PROCEDURES: HOW TO SERVE LEGAL PAPERS BY SHERIFF

**In cases concerning Guardianship of a Minor
(Arrange for service ONLY after you have filed your court papers)**

STEP 1 ARRANGING FOR SERVICE:

- Go to the sheriff's office with the papers for Service. The Sheriff's Office is located in downtown Phoenix. Even if you file your case at the Juvenile Court at the Durango Facility, or at the Juvenile Court's Southeast Facility in Mesa, you must still go to the Sheriff's office to arrange for Service. The address for the Sheriff's office is:

The Sheriff's Office
201 West Jefferson Street
Central Court Building
Phoenix, Arizona 85003
(602) 256-1834

- There is a filing fee for all Petitions and there are Service Fees. You may request a WAIVER OR DEFERRAL OF FILING FEES (and the Sheriff's Service Fees if you intend to use the Sheriff's Office for service) at the time you file your papers with the Clerk of the Court.

STEP 2 DOCUMENTS NEEDED FOR SERVICE:

- Complete the attached sheet for identifying the other person (Page 2) and bring the following with you to the Sheriff's Office:
 - 1) A set of copies of the court papers for the person being served.
 - 2) A picture or a written physical description of the other person.
 - 3) A written description of the automobile the other person drives.
 - 4) The address where other person can be served.
 - 5) A Certified Copy of the Order Waiving/Deferring Fees or a **\$200.00 deposit** payable with cash or money order.

STEP 3 AFTER SERVICE IS GIVEN:

- The Sheriff will mail you a copy of the AFFIDAVIT OF SERVICE after he or she serves the other person with the papers. The Sheriff may also file these papers instead of sending them back to you; however, make sure that the Affidavit is filed.

SELF-SERVICE CENTER
PROCEDURES: HOW TO SERVE LEGAL PAPERS BY PUBLICATION
GUARDIANSHIP CASES

(Arrange for service after you have filed your papers at the court)

STEP 1 HOW TO PUBLISH: If you are publishing Notice, you should complete the attached letter, describing the documents that need to be referenced by the newspaper for the publication.

A. IF YOU ARE PAYING THE PUBLICATION COSTS YOU MAY USE:

- THE ARIZONA BUSINESS GAZETTE. Call (602)-444-7315) for instructions. If paying by check, make it payable to ARIZONA BUSINESS GAZETTE, **OR ANY**
- OTHER PAPER OF GENERAL CIRCULATION, such as the Record Reporter (602-417-9900) - but it *must* be in required form. **OR**
- Publish in the last known county of residence of the person you are trying to serve.

Note: There are fees for filing all petitions as well as for service of court papers, including service by publication. You may request a WAIVER OR DEFERRAL OF THE FILING AND SERVICE FEES at the time you file your papers with the Clerk of the Court. Service and publication fees can be waived or deferred only if you use the Sheriff's Office to serve the papers or the Record Reporter to publish.

B. IF YOU HAVE A COURT ORDER WAIVING/DEFERRING SERVICE BY PUBLICATION COSTS, you can only use the **BUSINESS GAZETTE**. Call (602)-444-7315) for instructions. You will need a CERTIFIED ORDER from the Court, WAIVING/DEFERRING COSTS.

STEP 2 WHEN TO FILE:

- **Wait** for the newspaper to send you a copy of the document called AFFIDAVIT OF PUBLICATION. If the newspaper sends you an original, file the original. Otherwise, make sure the original AFFIDAVIT OF PUBLICATION gets filed with the Clerk of Court, Juvenile Division.

STEP 3 GATHER THE PAPERWORK:

- Complete the original of the DECLARATION SUPPORTING PUBLICATION document, which is attached.
- Make a **copy** of the DECLARATION SUPPORTING PUBLICATION for yourself.
- If the newspaper has not filed the AFFIDAVIT OF PUBLICATION, make sure it gets filed by using the attached AFFIDAVIT OF PUBLICATION FORM.

Note that the DECLARATION SUPPORTING PUBLICATION and the AFFIDAVIT OF PUBLICATION are two separate documents.

STEP 4 FILE YOUR DOCUMENTS WITH THE COURT:

- Original of the DECLARATION SUPPORTING PUBLICATION and **copy** of the publication, **AND**
- Original of the AFFIDAVIT OF PUBLICATION you received from the newspaper unless the newspaper filed it for you. Make sure you bring a **copy** of the AFFIDAVIT OF PUBLICATION to the hearing.

DO NOT BRING CHILDREN TO COURT (*unless it's the Minor(s) named in this case*).

Case No. _____

Print Your Name: _____

Your Address: _____

Date: _____

Case No. JG _____

Name of Newspaper

Address

To Whom It May Concern:

I need to publish notice in the newspaper regarding **Guardianship of a Minor**, whose name is:

(Name of the Minor(s) who needs/need guardian)

Enclosed is the "Notice of Hearing" for a matter about a guardianship (of a minor).

Please publish a notice in your newspaper about this court case on three separate days before the hearing. The first publication must be at least 14 days prior to the hearing, *which is scheduled for:*

(date of Hearing)

Also enclosed is (check one box)

A check or money order in the amount of \$_____ for the cost of the publication as requested,
OR,

A certified copy of the Order from the court waiving/deferring the publication costs (Arizona Business Gazette only).

When you receive this letter, please call me at (____) _____ to tell me when the first publication will occur. When all three days of publication have been completed, please *file the original* and send me one copy of the **"Affidavit of Publication"**.

Thank you for your assistance in this matter.

Sincerely,

Your name

Enclosures